

Title	Renumbering and Revision of Title Five of the California Rules of Court
Summary	Title Five (divisions Ia and Ib) of the California Rules of Court would be (1) renumbered and placed in logical order; (2) revised or repealed to match the renumbering of the family law forms that will take effect July 1, 2002; (3) updated to correct references to revoked or revised code sections or rules of court; (4) revised to replace “shall” with “must” or “may” as appropriate; (5) revised or repealed to reflect the mandatory nature of many family law forms; (6) revised to delete references to procedures spelled out in the Civil Code; and (7) otherwise updated and rewritten for clarity.
Source	Family and Juvenile Law Advisory Committee
Staff	Bonnie Rose Hough, 415-865-7668
Discussion	<p>On October 26, 2001, the Judicial Council approved a plan to revise the numbering of family law forms effective July 1, 2002, to make them consistent with other Judicial Council forms and easier to locate. Many of the rules in Title Five refer to those form numbers and must be updated as a result of this change. Other rules may be repealed entirely as a result of this new numbering plan.</p> <p>The Judicial Council is also in the process of reorganizing the California Rules of Court to help users find appropriate rules. This proposal begins the process of revising Title Five, Special Rules for Trial Courts, by segregating the family law rules and adopting a new numbering system that begins with a “5.” to designate Title Five and then numbers the rules logically according by subject matter. Many of the rules in this proposal contain technical amendments designed to improve clarity.</p> <p><i>Significant Amendments to Rules Governing Family Law Proceedings</i> Effective January 1, 2001, the Judicial Council adopted rule 1278 (now proposed as rule 5.140), which provides that “Each form adopted or approved by the Judicial Council for use in any proceeding under the Family Code . . . [is] adopted [a] as rule[s] of court under the authority of Family Code section 211; article VI, section 6 of the California Constitution; and other applicable law.” With the adoption of this rule, family law forms no longer need to be designated as rules of court, and most specific references to the forms in the rules of court may be deleted. This proposal suggests new language for the rule that</p>

describes the new form numbers adopted by the Judicial Council as of July 1, 2002.

Since many forms are now mandatory, rules that refer to using specific Judicial Council forms to initiate proceedings have generally been deleted as unnecessary. Those rules that refer to procedures set out in the Code of Civil Procedure – such as motions to quash proceeding, availability of lis pendens, and similar actions – have also been deleted as unnecessary.

This proposal also makes various revisions to the rules to delete references to revoked or revised code sections. The revisions also include changing references from the “district attorney” to the “local child support agency” and correcting references to statutes for Title IV-D child support cases that previously were in the Welfare and Institutions Code and are now in the Family Code.

This proposal also deletes an outdated reference contained in current rule 1258(b)(2) to “MS-DOS” in connection with council-approved child support calculation software. The proposed replacement is “Windows 95 or later.”

Grievance Procedure for Complaints about Family Law Facilitators. In a substantive change in the minimum standards for family law facilitators, new subdivision (g) in proposed rule 5.165 would require courts to adopt local rules establishing a grievance procedure for processing and responding to complaints against a family law facilitator.

Readers are invited to comment on the renumbering scheme, and on any of the proposed revisions of these rules.

Future Amendments to Title Five

Current Division Ia. General Rules, has been moved to 5.1000, which falls between the family law and juvenile rules. It is intended to provide a “cross-over” between these rules. As the Judicial Council explores other rules that will allow for better coordination between family and juvenile courts, those will be numbered in the section between family and juvenile rules.

The Judicial Council will also review the juvenile rules and remaining non-family and juvenile related rules that are located in Title Five and renumber them in a future proposal.

Attachment A (pages 4-130) shows the rules with strike outs and underling of new text to demonstrate all changes. Attachment B (pages 131-200) shows the revised rules as they would look if adopted by the Judicial Council.

Attachments

1 **TITLE FIVE. Special Rules for Trial Courts**

2 Adopted as Title Four effective January 1, 1970; renumbered effective July 1, 1993.

3 **DIVISION I. Rules Pertaining to Proceedings Involving Children and Families**

4 Adopted effective July 1, 1998.

5 **~~DIVISION Ia. General Rules~~**

6 ~~Adopted effective July 1, 1998.~~

7 **~~Rule 1180. Postadoption contact agreement~~**

8
9 ~~(a) [Applicability of rule (Fam. Code, §§ 8714, 8714.5, 8714.7; Welf. & Inst.~~
10 ~~Code, §§ 358.1, 366.26)] This rule applies to any adoption of a child. The~~
11 ~~adoption petition must be filed under Family Code sections 8714 and 8714.5.~~
12 ~~If the child is a dependent of the juvenile court, the adoption petition may be~~
13 ~~filed in that juvenile court and the clerk must open a confidential adoption file~~
14 ~~for the child, and this file must be separate and apart from the dependency file,~~
15 ~~with an adoption case number different from the dependency case number. For~~
16 ~~the purposes of this rule, a “relative” is defined as follows:~~

17
18 ~~(1) An adult related to the child or the child’s sibling or half sibling by blood~~
19 ~~or affinity, including a relative whose status is preceded by the word~~
20 ~~“step,” “great,” “great great” or “grand”; or~~

21
22 ~~(2) The spouse of any of the persons described in subdivision (a)(1) even if~~
23 ~~the marriage was terminated by dissolution or the death of the spouse~~
24 ~~related to the child.~~

25
26 ~~(Subd (a) amended effective July 1, 2001.)~~

27
28 ~~(b) [Agreement for postadoption contact (Fam. Code, § 8714.7)] An adoptive~~
29 ~~parent or parents, a birth relative or relatives, including a birth parent or~~
30 ~~parents of a child who is the subject of an adoption petition, and the child may~~
31 ~~enter into a written agreement permitting postadoption contact between the~~
32 ~~child and birth relatives. No prospective adoptive parent or birth relative may~~
33 ~~be required by court order to enter into a postadoption contact agreement.~~

34
35 ~~(Subd (b) amended effective July 1, 2001.)~~

1
2 ~~(e) [Court approval; time of decree (Fam. Code, § 8714.7)]~~ If, at the time the
3 adoption petition is granted, the court finds that the agreement is in the best
4 interests of the child, the court may enter the decree of adoption and grant
5 postadoption contact as reflected in the approved agreement.
6

7 ~~(d) [Terms of agreement (Fam. Code, § 8714.7)]~~ The terms of the agreement are
8 limited to the following, although they need not include all permitted terms:
9

10 ~~(1) Provisions for visitation between the child and a birth parent or parents;~~
11

12 ~~(2) Provisions for visitation between the child and other identified birth~~
13 ~~relatives, including siblings or half siblings of the child;~~
14

15 ~~(3) Provisions for contact between the child and a birth parent or parents;~~
16

17 ~~(4) Provisions for contact between the child and other identified birth~~
18 ~~relatives, including siblings or half siblings of the child;~~
19

20 ~~(5) Provisions for contact between the adoptive parent or parents and a birth~~
21 ~~parent or parents;~~
22

23 ~~(6) Provisions for contact between the adoptive parent or parents and other~~
24 ~~identified birth relatives, including siblings or half siblings of the child;~~
25

26 ~~(7) Provisions for the sharing of information about the child with a birth~~
27 ~~parent or parents;~~
28

29 ~~(8) Provisions for the sharing of information about the child with other~~
30 ~~identified birth relatives, including siblings or half siblings of the child;~~
31

32 ~~(9) The terms of any postadoption contact agreement entered into pursuant to~~
33 ~~a petition filed under Family Code section 8714 must be limited to the~~
34 ~~sharing of information about the child unless the child has an existing~~
35 ~~relationship with the birth relative.~~
36

37 *(Subd (d) amended effective July 1, 2001.)*
38

39 ~~(e) [Child a party (Fam. Code, § 8714.7)]~~ The child who is the subject of the
40 adoption petition is a party to the agreement whether or not specified as such.
41

1 ~~(1) Written consent by a child 12 years of age or older to the terms of the~~
2 ~~agreement is required for enforcement of the agreement, unless the court~~
3 ~~finds by a preponderance of the evidence that the agreement is in the best~~
4 ~~interest of the child and waives the requirement of the child's written~~
5 ~~consent.~~

6
7 ~~(2) If the child has been found by a juvenile court to be described by section~~
8 ~~300 of the Welfare and Institutions Code, an attorney must be appointed~~
9 ~~to represent the child for purposes of participation in and consent to any~~
10 ~~postadoption contact agreement, regardless of the age of the child. If the~~
11 ~~child has been represented by an attorney in the dependency proceedings,~~
12 ~~that attorney must be appointed for the additional responsibilities of this~~
13 ~~rule. The attorney is required to represent the child only until the adoption~~
14 ~~is decreed and dependency terminated.~~

15
16 ~~(Subd (e) amended effective July 1, 2001.)~~

17
18 ~~(f) [Form and provisions of the agreement (Fam. Code, § 8714.7)] The~~
19 ~~agreement must be prepared and submitted on Judicial Council form~~
20 ~~Postadoption Contact Agreement (ADOPT 310) with appropriate attachments.~~

21
22 ~~(Subd (f) amended effective July 1, 2001.)~~

23
24 ~~(g) [Report to the court (Fam. Code, § 8715)] The department or agency~~
25 ~~participating as a party or joining in the petition for adoption must submit a~~
26 ~~report to the court. The report must include a criminal record check and~~
27 ~~descriptions of all social service referrals. If a postadoption contact agreement~~
28 ~~has been submitted, the report must include a summary of the agreement and a~~
29 ~~recommendation as to whether it is in the best interest of the child.~~

30
31 ~~(Subd (g) amended effective July 1, 2001.)~~

32
33 ~~(h) [Enforcement of the agreement (Fam. Code, § 8714.7)] The court that grants~~
34 ~~the petition for adoption and approves the postadoption contact agreement~~
35 ~~must retain jurisdiction over the agreement.~~

36
37 ~~(1) Any petition for enforcement of an agreement must be filed on Judicial~~
38 ~~Council form Petition for Enforcement, Modification, or Termination of~~
39 ~~Postadoption Contact Agreement (ADOPT 315). The form must not be~~
40 ~~accepted for filing unless completed in full, with documentary evidence~~
41 ~~attached of participation in, or attempts to participate in, mediation or~~
42 ~~other dispute resolution.~~

1 ~~(2) The court may make its determination on the petition without testimony~~
2 ~~or an evidentiary hearing and may rely solely on documentary evidence or~~
3 ~~offers of proof. The court may order compliance with the agreement only~~
4 ~~if:~~

5
6 ~~(A) There is sufficient evidence of good faith attempts to resolve the~~
7 ~~issues through mediation or other dispute resolution; and~~
8

9 ~~(B) The court finds enforcement is in the best interests of the child.~~

10
11 ~~(3) The court must not order investigation or evaluation of the issues raised in~~
12 ~~the petition unless the court finds by clear and convincing evidence that:~~

13
14 ~~(A) The best interests of the child may be protected or advanced only by~~
15 ~~such inquiry; and~~
16

17 ~~(B) The inquiry will not disturb the stability of the child's home to the~~
18 ~~child's detriment.~~
19

20 ~~(4) Monetary damages must not be ordered.~~

21
22 ~~(Subd (h) amended effective July 1, 2001.)~~
23

24 ~~(i) [Modification or termination of agreement (Fam. Code, § 8714.7)] The~~
25 ~~agreement may be modified or terminated by the court. Any petition for~~
26 ~~modification or termination of an agreement must be filed on Judicial Council~~
27 ~~form *Petition for Enforcement, Modification, or Termination of Postadoption*~~
28 ~~*Contact Agreement* (ADOPT 315). The form must not be accepted for filing~~
29 ~~unless completed in full, with documentary evidence attached of participation~~
30 ~~in, or attempts to participate in, mediation or other appropriate dispute~~
31 ~~resolution.~~
32

33 ~~(1) The agreement may be terminated or modified only if:~~

34
35 ~~(A) All parties, including the child of 12 years or older, have signed the~~
36 ~~petition or have indicated on the Judicial Council form *Response to*~~
37 ~~*Petition for Enforcement, Modification, or Termination of*~~
38 ~~*Postadoption Contact Agreement* (ADOPT 320) their consent or~~
39 ~~have executed a modified agreement filed with the petition; or~~
40

41 ~~(B) The court finds all of the following:~~
42

1 (i) ~~The termination or modification is necessary to serve the best~~
2 ~~interests of the child;~~

3
4 (ii) ~~There has been a substantial change of circumstances since the~~
5 ~~original agreement was approved; and~~

6
7 (iii) ~~The petitioner has participated in, or has attempted to~~
8 ~~participate in, mediation or appropriate dispute resolution.~~

9
10 (2) ~~The court may make its determination without testimony or evidentiary~~
11 ~~hearing and may rely solely on documentary evidence or offers of proof.~~

12
13 (3) ~~The court may order modification or termination without a hearing if all~~
14 ~~parties, including the child of 12 years or older, have signed the petition~~
15 ~~or have indicated on the Judicial Council form *Response to Petition for*~~
16 ~~*Enforcement, Modification, or Termination of Postadoption Contact*~~
17 ~~*Agreement* (ADOPT 320) their consent or have executed a modified~~
18 ~~agreement filed with the petition.~~

19
20 ~~(Subd (i) amended effective July 1, 2001.)~~

21
22 (j) ~~[Costs and fees (Fam. Code, § 8714.7)] The fee for filing a *Petition for*~~
23 ~~*Enforcement, Modification, or Termination of Postadoption Contact*~~
24 ~~*Agreement* (ADOPT 315) must not exceed the fee assessed for the filing of an~~
25 ~~adoption petition. Costs and fees for mediation or other appropriate dispute~~
26 ~~resolution must be assumed by each party, with the exception of the child. All~~
27 ~~costs and fees of litigation, including any court ordered investigation or~~
28 ~~evaluation, must be charged to the petitioner unless the court finds that a party~~
29 ~~other than the child has failed, without good cause, to comply with the~~
30 ~~approved agreement; all costs and fees must then be charged to that party.~~

31
32 ~~(Subd (j) amended effective July 1, 2001.)~~

33
34 (k) ~~[Adoption final (Fam. Code, § 8714.7)] Once a decree of adoption has been~~
35 ~~entered, the court may not set aside the decree, rescind any relinquishment,~~
36 ~~modify or set aside any order terminating parental rights, or modify or set aside~~
37 ~~any other orders related to the granting of the adoption petition, due to the~~
38 ~~failure of any party to comply with the terms of a postadoption contact~~
39 ~~agreement or any subsequent modifications to it.~~

40
41 ~~(Subd (k) amended effective July 1, 2001.)~~

42
43 ~~Rule 1180 amended effective July 1, 2001; adopted effective July 1, 1998.~~

1
2 **DIVISION 10a. Family Law Rules**

3 Renumbered effective July 1, 1998; amended and renumbered effective January 1, 2003.

4 **CHAPTER 1. General Provisions**

5 Title Five, Special Rules for Trial Courts—Division 10a, Family Law Rules—Chapter 1, General
6 Provisions; adopted effective January 1, 1970.

7 ~~Rule 1201.~~ 5.105. Definitions

8 ~~Rule 1202.~~ 5.110. Construction of terms

9 ~~Rule 1203.~~ 5.115. Extensions of time

10 ~~Rule 1204.~~ 5.120. Holidays

11 ~~Rule 1205.~~ 5.125. Applicability of rules

12 ~~Rule 1206.~~ 5.130. General law applicable

13 ~~Rule 1207.~~ 5.135. Other proceedings

14 Rule 5.140. Status of family law and domestic violence forms

15 Rule 5.145. Use of forms in nonfamily law proceedings

16 Rule 5.150. Use of interstate forms

17 ~~Rule 1200.~~ 5.160. Judicial education for family court judicial officers

18 ~~Rule 1208.~~ 5.165. Minimum standards for the office of the family law facilitator

19
20 **~~Rule 1200. Judicial education for family court judicial officers~~**

21
22 Every judicial officer whose principal judicial assignment is to hear family law
23 matters or who is the sole judge hearing family law matters shall, if funds are
24 available, attend the following judicial education programs:

25
26 (1) ~~(Basic family law education)~~ Within three months of beginning a family
27 law assignment, or within one year of beginning a family law assignment
28 in courts with five or fewer judges, the judicial officer shall attend a basic
29 educational program on California family law and procedure designed
30 primarily for judicial officers. A judicial officer who has completed the
31 basic educational program need not attend the basic educational program
32 again. All other judicial officers who hear family law matters, including
33 retired judges who sit on court assignment, shall participate in appropriate
34 family law educational programs.

35
36 (2) ~~(Continuing family law education)~~ The judicial officer shall attend a
37 periodic update on new developments in California family law and
38 procedure.

1
2 (3) ~~(Other family law education)~~ To the extent that judicial time and
3 resources are available, the judicial officer shall attend additional
4 educational programs on other aspects of family law including
5 interdisciplinary subjects relating to the family.
6

7 *Rule 1200 adopted effective January 1, 1992.*
8

9 **Rule 12015.105. Definitions**
10

11 As used in ~~these rules~~ this division, unless the context or subject matter otherwise
12 requires:
13

- 14 (a) “Family Code” means that code enacted by chapter 162 of the Statutes of 1992
15 and any subsequent amendments to that code.
16
17 (b) “Party,” “petitioner,” “respondent,” “plaintiff,” “defendant,” “other parent,” or
18 any other designation of a party includes such party’s attorney of record. When
19 a notice or other paper is required to be given or served on a party, such notice
20 or service ~~shall~~ must be given to or made on the party’s attorney of record if the
21 party has an attorney of record.
22

23 *(Subd (b) amended effective January 1, 2003; previously amended effective January 1,*
24 *1999.)*
25

- 26 (c) “Proceeding” means a proceeding ~~pursuant to~~ under the Family Code for
27 dissolution of marriage, nullity of marriage, legal separation, custody and
28 support of minor children or actions under the Domestic Violence Prevention
29 Act, the Uniform Parentage Act, the Uniform Child Custody Jurisdiction and
30 Enforcement Act, or the Uniform Interstate Family Support Act; ~~and district~~
31 ~~attorney child~~ local child support agency support actions ~~pursuant to~~ under
32 sections 11350, 11350, and 11475.1 of the Welfare and Institutions ~~the Family~~
33 Code and contempt proceedings relating to Family Law or ~~district attorney~~ local
34 child support agency support actions.
35

36 *(Subd (c) amended effective July 1, 2001; previously amended effective January 1, 1999.)*
37

- 38 (d) “Property” includes assets and obligations.
39
40 (e) “Serve and file” means that a paper filed in a court is to be accompanied by
41 proof of prior service in a manner permitted by law of a copy of the paper on
42 each party appearing in the proceeding.
43

1 ~~(f) Any references in these rules to the Family Law Act or to provisions of the~~
2 ~~Civil Code that have been relocated to the Family Code shall be deemed to~~
3 ~~refer to the corresponding provisions of the Family Code.~~
4

5 *Rule 5.105 amended and renumbered effective January 1, 2003; previously amended effective*
6 *January 1, 1994 and January 1, 1999; adopted as rule 1201 effective January 1, 1970.*
7

8 **Rule ~~1202~~5.110. Construction of terms**
9

10 (a) “~~Shall~~Must” is mandatory, and “may” is permissive.
11

12 *(Subd (a) amended effective January 1, 2003.)*
13

14 (b) The past, present, and future tense ~~shall~~ each includes the others.
15

16 *(Subd (b) amended effective January 1, 2003.)*
17

18 (c) The singular and plural number ~~shall~~ each includes the other.
19

20 *(Subd (c) amended effective January 1, 2003.)*
21

22 (d) Rule and subdivision headings do not in any manner affect the scope, meaning,
23 or intent of the provisions of these rules.
24

25 *Rule 5.110 amended and renumbered effective January 1, 2003; adopted as rule 1202 effective*
26 *January 1, 1970.*
27

28 **Rule ~~1203~~5.115. Extensions of time**
29

30 The time within which any act is permitted or required to be done by a party under
31 these rules may be extended by the court upon such terms as may be just.
32

33 *Rule 5.115 amended and renumbered effective January 1, 2003; adopted as rule 1203 effective*
34 *January 1, 1970.*
35

36 **Rule ~~1204~~5.120. Holidays**
37

38 If any day on which an act permitted or required to be done by these rules falls on a
39 legal holiday, the act may be performed on the next succeeding judicial day.
40

41 *Rule 5.120 amended and renumbered effective January 1, 2003; adopted as rule 1204 effective*
42 *January 1, 1970.*
43

44 **Rule ~~1205~~5.125. Applicability of rules**

1
2 The rules in this division apply to every action and proceeding as to which the
3 Family Code applies and, unless these rules elsewhere explicitly make them
4 applicable, do not apply to any other action or proceeding ~~except for proceedings~~
5 ~~formerly brought under chapters 1608 and 1609 of the Statutes of 1969 (Family Law~~
6 ~~Act).~~

7
8 ~~Chapter 3.5 of this division applies to summary dissolution proceedings pursuant to~~
9 ~~sections 2400–2406 of the Family Code, and Chapters 2, 2.5, 2.6, 2.7, and 5 of this~~
10 ~~division do not apply to such proceedings.~~

11
12 ~~Chapters 2, 2.6, 2.7, 4, and 5 of this division apply to district attorney support~~
13 ~~proceedings filed under the Welfare and Institutions Code. Other chapters do not~~
14 ~~apply to district attorney support proceedings.~~

15
16 *Rule 5.125 amended and renumbered effective January 1, 2003; adopted as rule 1205 effective*
17 *January 1, 1970; previously amended effective January 1, 1979, January 1, 1994, and January 1,*
18 *1990.*

19
20 **Rule ~~1206~~5.130. General law applicable**

21
22 Except as otherwise provided in these rules, all provisions of law applicable to civil
23 actions generally apply to a proceeding under the Family Code ~~regardless of~~
24 ~~nomenclature to a proceeding pursuant to the Family Code~~ if they would otherwise
25 apply to such proceeding without reference to this rule. To the extent that these
26 rules conflict with ~~such provisions~~ in other statutes or rules, these rules ~~shall~~ prevail.

27
28 *Rule ~~1206~~ 5.130 amended and renumbered effective January 1, 2003; adopted as rule 1206*
29 *effective January 1, 1970; previously amended effective January 1, 1994.*

30
31 **Rule ~~1207~~5.135. Other proceedings**

32
33 In any action ~~pursuant to~~ under the Family Code but not otherwise subject to these
34 rules by virtue of ~~subdivision (c) of rule 12015.105(c), including but not limited to~~
35 ~~those proceedings authorized by sections 3021, 3041, 3120, and 4000 of the Family~~
36 ~~Code, all provisions of law applicable to civil actions generally apply. regardless of~~
37 ~~nomenclature if they would otherwise apply to such actions without reference to this~~
38 ~~rule, but the~~ Such an action shall must be commenced by filing an appropriate
39 petition, ~~and defended responded to by filing an~~ and the respondent must file an
40 appropriate response within 30 days after service upon the respondent of the
41 summons and a copy of the petition.
42

1 *Rule 5.135 amended and renumbered effective January 1, 2003; adopted as rule 1207 effective*
2 *January 1970; amended effective January 1, 1994.*

3
4 **Rule ~~1278~~5.140. Status of family law and domestic violence forms**

5
6 ~~Each~~ All forms adopted or approved by the Judicial Council for use in any
7 proceeding under the Family Code, including ~~but not limited to forms adopted as~~
8 ~~rules 1281-1299.74 and forms adopted in the ADOPT, DV, and FJ series of forms,~~
9 any form in the FL, ADOPT, DV, and FJ series, are adopted as rules of court under
10 the authority of Family Code section 211; article VI, section 6 of the California
11 Constitution; and other applicable law.

12
13 *Rule ~~1278~~5.140 amended and renumbered effective January 1, 2003; adopted as rule 1278*
14 *effective January 1, 2001.*

15
16 **Rule ~~1275~~5.145. Use of forms in nonfamily law proceedings**

17
18 The forms specified by this ~~chapter~~ division may be used, at the option of the party,
19 in any proceeding involving a financial obligation growing out of the relationship of
20 parent and child or husband and wife, to the extent they are appropriate to that
21 proceeding.

22
23 *Rule ~~1275~~5.145 renumbered effective January 1, 2003; adopted as rule 1275 effective July 1,*
24 *1985.*

25
26 **Rule ~~1275~~5.150. Use of interstate forms**

27
28 Notwithstanding any other provision of these rules, all Uniform Interstate Family
29 Support Act forms approved by either the National Conference of Commissioners
30 on Uniform State Laws or the U.S. Department of Health and Human Services are
31 adopted for use in family law and other support actions in California.

32
33 *Rule~~1276~~ 5.150 renumbered effective January 1, 2003; adopted as rule 1276 effective July 1,*
34 *1988; amended effective January 1, 1998.*

35
36 **Rule ~~1200~~5.160. Judicial education for family court judicial officers**

37
38 Every judicial officer whose principal judicial assignment is to hear family law
39 matters or who is the sole judge hearing family law matters ~~shall~~ must, if funds are
40 available, attend the following judicial education programs:

- 41
42 (a) *(Basic family law education)* Within three months of beginning a family
43 law assignment, or within one year of beginning a family law assignment

1 in courts with five or fewer judges, the judicial officer ~~shall~~must attend a
2 basic educational program on California family law and procedure
3 designed primarily for judicial officers. A judicial officer who has
4 completed the basic educational program need not attend the basic
5 educational program again. All other judicial officers who hear family
6 law matters, including retired judges who sit on court assignment, ~~shall~~
7 must participate in appropriate family law educational programs.
8

9 (b) (*Continuing family law education*) The judicial officer ~~shall~~must attend a
10 periodic update on new developments in California family law and
11 procedure.
12

13 (c) (*Other family law education*) To the extent that judicial time and
14 resources are available, the judicial officer ~~shall~~must attend additional
15 educational programs on other aspects of family law including
16 interdisciplinary subjects relating to the family.
17

18 *Rule ~~1200~~5.160 amended and renumbered effective January 1, 2003; adopted as rule 1200*
19 *effective January 1, 1992.*
20

21 **Rule ~~1208~~5.165. Minimum standards for the office of the family law facilitator**
22

23 (a) **[Authority]** These standards are adopted ~~pursuant to~~under Family Code
24 section 10010.
25

26 (b) **[Family law facilitator qualifications]** The Office of the Family Law
27 Facilitator must be headed by at least one attorney, who is an active member of
28 the State Bar of California, known as the family law facilitator. Each family
29 law facilitator ~~shall~~must possess the following qualifications:
30

31 (1) A minimum of five years experience in the practice of law, which
32 ~~shall~~must include substantial family law practice including litigation
33 and/or mediation;
34

35 (2) Knowledge of family law procedures;
36

37 (3) Knowledge of the child support establishment and enforcement process
38 under Title IV-D of the federal Social Security Act (42 U.S.C. § 651 et
39 seq.);
40

41 (4) Knowledge of child support law and the operation of the uniform state
42 child support guideline; and

(5) Basic understanding of law and psychological issues related to domestic violence.

(Subd (b) amended effective January 1, 2003.)

(c) **[Substituted experience]** Courts may substitute additional experience, skills, or background appropriate to their community for the qualifications listed above.

(d) **[Desirable experience]** Additional desirable experience for a family law facilitator may include experience in working with low-income, semiliterate, unrepresented, or non-English-speaking litigants.

(e) **[Service provision]** Services may be provided by other paid and volunteer members of the Office of the Family Law Facilitator under the supervision of the family law facilitator.

(f) **[Protocol required]** Each court must develop a written protocol to provide services when a facilitator deems himself or herself disqualified or biased.

(g) **[Grievance procedure]** Each court must develop a written protocol for a grievance procedure for processing and responding to any complaints against a family law facilitator.

(Subd (g) adopted effective January 1, 2003.)

(h) **[Training requirements]** Each family law facilitator should attend at least one training per year for family law facilitators provided by the Judicial Council.

Rule 5.165 amended and renumbered effective January 1, 2003; adopted as rule 1208 effective January 1, 2000.

CHAPTER 2.0. Procedural Rules

Title Five, Special Rules for Trial Courts—Division Iba, Family Law Rules—Chapter 2, Procedural Rules; adopted effective January 1, 1970, amended and renumbered effective January 1, 2003.

Rule ~~1210~~ 5.200. Designation of parties

Rule ~~1211~~ 5.202. Parties to proceeding

Rule ~~1212~~ 5.204. Other causes of action

Rule ~~1213~~ 5.206. Injunctive relief and reservation of jurisdiction

~~Rule 1215~~ 5.208. Pleadings
~~Rule 1216~~ 5.210. Summons; restraining order
~~Rule 1217~~ 5.212. Continuing jurisdiction
~~Rule 1218~~ Duties of clerk
~~Rule 1219~~. *Lis pendens*
~~Rule 1220~~. Costs
~~Rule 1221~~ 5.220. Alternative relief
~~Rule 1222~~ Commencement of proceeding
~~Rule 1223~~ 5.224. Stipulation for judgment
~~Rule 1224~~. [Repealed 2001]
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~~Rule 1226~~ Orders to show cause re contempt
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~~Rule 1229~~. Motion to strike
~~Rule 1230~~. Motion to quash proceeding
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~~Rule 1232~~. Ruling on motion to quash
~~Rule 1233~~. Dismissal of proceeding
~~Rule 1234~~. Motion to quash summons
~~Rule 1235~~. Motion to transfer
~~Rule 1236~~ 5.246. Appearance
~~Rule 1237~~ 5.248. Default
~~Rule 1238~~. Statements of fact
~~Rule 1239~~. Motion to quash responsive relief
~~Rule 1240~~ 5.254 Request for default
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~~Rule 1242~~. Division of property
~~Rule 1242.5~~ 5.260. Alternate date of valuation
~~Rule 1243~~ 5.262. Financial declaration
~~Rule 1244~~. Judgment
~~Rule 1245~~ 5.264 Summary Dissolution
~~Rule 1246~~. [Repealed 1985]
~~Rule 1247~~ 5.266. Notice of entry of judgment
~~Rule 1248~~ 5.268. Completion of notice of entry of judgment
~~Rule 1249~~ 5.272. Implied procedures
~~Rule 1210~~ 5.200. Designation of parties

In proceedings filed under the Family Code, except for ~~district attorney child~~
~~support~~ local child support agency actions, the party initiating the proceeding is the

petitioner, and the other party is the respondent. In ~~district attorney child support~~ local child support agency actions, the responding party is the defendant and the parent who is not the defendant is referred to as the "Other Parent." Every other proceeding ~~shall~~must be prosecuted and defended in the names of the real parties in interest.

Rule 5.200 amended and renumbered effective January 1, 2003; adopted as rule 1210 effective January 1, 1970; previously amended effective January 1, 1999.

Rule ~~1211~~5.202. Parties to proceeding

(a) Except as provided in ~~subdivision (b)~~ or in rules ~~1250~~ 5.300 through ~~1255~~5.325, the only persons permitted to be parties to a proceeding for dissolution, legal separation, or nullity are the husband and wife.

(Subd (a) amended effective January 1, 2003; previously amended effective January 1, 1977, and January 1, 1999.)

(b) In a nullity proceeding commenced by a person specified in Family Code section 2211, other than a proceeding commenced by or on behalf of the husband or wife, the person initiating the proceeding is a party and the caption on all papers ~~shall~~must be suitably modified to reflect that fact.

(Subd (b) amended effective January 1, 2003; previously amended effective January 1, 1994.)

Rule ~~1211~~5.202 amended and renumbered effective January 1, 2003; adopted as rule 1211 effective January 1, 1970; amended effective January 1, 1999; previously amended effective January 1, 1977, and January 1, 1994.; ~~adopted effective January 1, 1970.~~

Rule ~~1212~~ 5.204 Other causes of action

Neither party to the proceeding may assert against the other party or any other person any cause of action or claim for relief other than for the relief provided in these rules, ~~Welfare and Institutions Code~~ Family Code sections ~~11350.17400, 11350.17402, and 11475.17404~~, or other sections of the Family Code.

Rule ~~1212~~ 5.204 amended and renumbered effective January 1, 2003; adopted as rule 1212 effective January 1, 1970; amended effective January 1, 1999; previously amended effective January 1, 1994.

Rule ~~1213~~ 5.206. Injunctive relief and reservation of jurisdiction

1 (a) Upon application in the manner as set out in rule 5.226, the court may grant
2 injunctive or other relief against or for the following persons to protect the
3 rights of either or both parties to the proceeding under the Family Code:

4
5 (1) ~~If there is any~~ a person who has or claims an interest in the controversy;

6
7 (2) a person, ~~or~~ who but for rule ~~1214~~ 5.202 would be a necessary party to a
8 complete adjudication of the controversy; or

9
10 (3) ~~, or if there is~~ a person who is acting as a trustee, agent, custodian, or
11 similar fiduciary with respect to any property subject to disposition by the
12 court in the proceeding, or other matter subject to the jurisdiction of the court
13 in the proceeding.

14
15 (b) ~~tThe court may grant injunctive or other relief against any person listed in (a),~~
16 ~~to protect the rights of either or both of the parties to the proceeding under the~~
17 ~~Family Code upon application therefor in the manner prescribed by rule~~
18 ~~12255.226. If or, if the court is unable to resolve the issue in the proceeding~~
19 ~~under the Family Code and, the court may reserve jurisdiction over the~~
20 ~~particular issue until such time as the rights of such person and the parties to~~
21 ~~the proceeding under the Family Code have been adjudicated in a separate~~
22 ~~action or proceeding.~~

23
24 *Rule ~~1213~~5.206 amended and renumbered effective January 1, 2003; adopted as rule 1213*
25 *effective January 1, 1970; previously amended effective January 1, 1994.*

26
27 **Rule ~~1215~~5.208. Pleadings**

28
29 (a) The forms of pleading and the rules by which the sufficiency of pleadings is to
30 be determined are solely those prescribed in these rules. Demurrers ~~and other~~
31 ~~forms of pleading~~ may not be used ~~unless specifically permitted by these rules.~~

32
33 (b) ~~The only pleading permitted by a petitioner to initiate an action for dissolution,~~
34 ~~legal separation, or nullity is the petition in the form prescribed by rule 1281.~~
35 ~~In an action to establish parental relationship, the only pleading permitted by a~~
36 ~~petitioner to initiate an action is a petition in the form prescribed by rule~~
37 ~~1296.60, except for an action filed by the district attorney pursuant to Welfare~~
38 ~~and Institutions sections 11350 and 11350. The only pleading permitted by a~~
39 ~~petitioner to initiate an action under the Domestic Violence Prevention Act is~~
40 ~~an order to show cause in the form prescribed by rule DV 110. The only~~
41 ~~pleading permitted by the district attorney to initiate an action under Welfare~~
42 ~~and Institutions Code sections 11350 and 11350 is in the form prescribed by~~

rule 1299.01. In a case brought under the Uniform Interstate Family Support Act, the only pleadings permitted to initiate an action are in the forms prescribed by rule.

(Subd (b) previously amended effective January 1, 1999.)

~~(e) The only pleading permitted by a respondent to respond to an action for dissolution, legal separation, or nullity is the response prescribed by rule 1282. To respond to an action to establish parental relationship, the only pleading permitted by a respondent is a response in the form prescribed by rule 1296.65 except for an action filed by the district attorney pursuant to Welfare and Institutions Code sections 11350 and 11350.1. The only pleading permitted by a respondent to respond to an action under the Domestic Violence Prevention Act is the responsive declaration in the form prescribed by rule DV 120. The only pleading permitted by the defendant to answer an action initiated by the district attorney under Welfare and Institutions Code sections 11350 and 1350.1 is in the form prescribed by rule 1299.04.~~

(db) Amendments to pleadings, amended pleadings, and supplemental pleadings may be served and filed in conformity with the provisions of law applicable to such matters in civil actions generally, but ~~there need be no reply by the petitioner is not required to file a reply~~ if the respondent has filed a response. If both parties have filed pleadings, there may be no default entered on an amended pleading of either party.

Rule ~~12155.208~~ amended and renumbered effective January 1, 2003; adopted as rule 1215 effective January 1, 1970; previously amended effective January 1, 1999.

Rule ~~12165.210~~. Summons; restraining order

(a) [Issuing the summons; form] Except for support proceedings initiated by ~~the~~a local child support agency, the procedure for issuance of summons in the proceeding ~~shall be~~is that applicable to civil actions generally. ~~except that~~
~~†The clerk shall~~must not return the original summons, but ~~rather shall~~must maintain it in the file.

~~The summons for a dissolution, legal separation, or nullity proceeding shall be in the form prescribed by rule 1283. For a proceeding to establish parentage under the Uniform Parentage Act, the summons shall be in the form prescribed by rule 1296.605.~~

(Subd (a) amended effective January 1, 2003; previously amended effective January 1, 1999 and January 1, 2001.)

1
2 ~~(b) [Service of summons]~~ A copy of the petition, together with a copy of the
3 summons or a copy of the Summons and Complaint (rule 1299.01), shall be
4 served upon the respondent or defendant in the manner provided for service of
5 summons in civil actions generally, and proof of such service shall be made in
6 the manner provided for proof of service of summons in civil actions generally.

7
8 *(Subd (b) amended January 1, 1999 and January 1, 2001.)*
9

10 **(eb) [Standard family law restraining order; handling by clerk]** Notwithstanding
11 Family Code section 233, a summons (FL-110 or FL-210) with the standard
12 family law restraining orders ~~shall~~must be issued and filed in the same manner
13 as a summons in a civil action, and ~~shall~~must be served and in enforced the
14 ~~same as in the manner prescribed for~~ any other restraining order. If service is by
15 publication, the publication ~~shall~~need not include the restraining orders.

16
17 *(Subd (eb) amended effective January 1, 2003; adopted effective July 1, 1990; previously*
18 *amended effective January 1, 1994 and January 1, 1999.)*
19

20 **(dc) [Individual restraining order]** On application of a party and as provided in
21 the Family Code, a court may issue any individual restraining order, ~~as~~
22 ~~provided in the Family Code~~, that appears to be reasonable or necessary,
23 including those restraining orders included in the standard family law
24 restraining orders. Individual orders supersede the standard family law
25 restraining orders on the ~~f~~Family ~~L~~Law and Uniform Parentage Act summons.
26

27 *(Subd (dc) amended effective January 1, 1999; previously amended effective January 1,*
28 *1999; adopted effective July 1, 1990.)*
29

30 *Rule 12165.210 amended and renumbered effective January 1, 2003; adopted effective January*
31 *1, 1970; previously amended effective July 1, 1990, January 1, 1994, January 1, 1999, and*
32 *January 1, 2001.*
33

34 **Rule ~~1217~~5.212. Continuing jurisdiction**

35

36 The court has jurisdiction of the parties and control of all subsequent proceedings
37 from the time of service of the summons and a copy of the petition. A general
38 appearance of the respondent is equivalent to personal service within this state of the
39 summons and a copy of the petition upon him or her.

40
41 *Rule ~~1217~~5.212 renumbered effective January 1, 2003; adopted as rule 1217 effective January 1,*
42 *1970.*
43

44 **Rule ~~1218~~. Duties of clerk**

1
2 The functions of the clerk with respect to filing and endorsement of the petition and
3 other papers filed in the proceeding shall be those applicable to civil actions
4 generally.
5

6 *Rule 1218 adopted as rule 1218 effective January 1, 1970.*
7

8 **Rule 1219. Lis pendens**
9

10 In a proceeding under the Family Code, either party may record a notice of
11 pendency of the proceeding under the circumstances and in the manner provided by
12 section 409 of the Code of Civil Procedure.
13

14 *Rule 1219 adopted as rule 1219 effective January 1, 1970; previously amended effective January*
15 *1, 1994.*
16

17 **Rule 1220. Costs**
18

19 The provisions of chapter 6 (commencing with section 1021) of title 14 of part 2 of
20 the Code of Civil Procedure are applicable to contested proceedings under the
21 Family Code in the same manner as in civil actions generally.
22

23 *Rule 1220 adopted as rule 1220 effective January 1, 1970; previously amended effective January*
24 *1, 1994.*
25

26 **Rule ~~1221~~5.220. Alternative relief**
27

28 A party seeking alternative relief ~~shall~~must so indicate ~~his request by such~~
29 ~~designations as are appropriate~~ in the petition or response.
30

31 *Rule ~~1221~~5.220 amended and renumbered effective January 1, 2003; adopted as rule 1221*
32 *effective January 1, 1970.*
33

34 **Rule ~~1222~~. Commencement of proceeding**
35

36 A party who seeks a judicial determination altering that party's marital status
37 pursuant to the Family Code shall complete and file in the superior court a petition
38 in the form prescribed by rule 1281. The proceeding is commenced upon the filing
39 of this petition.
40

41 *Rule 1222 adopted effective January 1, 1970; previously amended effective January 1, 1994.*
42

43 **Rule ~~1223~~5.224. Stipulation for judgment**

1 (a) A stipulation for judgment ~~in the form prescribed by rule 1287 or rule 1289, as~~
2 ~~may be appropriate to the relief sought, (which must be attached to form FL-180~~
3 ~~or form FL-250)~~ may be submitted to the court for signature at the time of the
4 hearing on the merits and ~~shall~~must contain the exact terms of any judgment
5 proposed to be entered in the case. At the end ~~thereof~~, immediately above the
6 space reserved for the judge's signature, the stipulation for judgment ~~shall~~must
7 contain the following:

8
9 The foregoing is agreed to by

(Petitioner)

(Respondent)

(Attorney for Petitioner)

(Attorney for Respondent)

10 (b) ~~The~~ A stipulation for judgment ~~shall~~must include disposition of all matters subject
11 to the court's jurisdiction for which a party seeks adjudication or an explicit
12 reservation of jurisdiction over any matter not proposed for disposition at that
13 time. A stipulation for judgment ~~shall~~ constitutes a written agreement between the
14 parties as to all matters covered ~~therein~~by the stipulation.

15
16 *Rule ~~1223~~ 5.224 amended and renumbered effective January 1, 2003; adopted as rule 1223*
17 *effective January 1, 1970; previously amended effective January 1, 1972.*

18
19 **~~Rule 1224. [Repealed 2001]~~**

20
21 *Rule 1224 repealed effective January 1, 2001; adopted effective January 1, 1970; previously*
22 *amended effective January 1, 1972, January 1, 1975, and January 1, 1994. The repealed rule*
23 *related to confidential counseling statement (petitioner).*

24
25 **~~Rule 1225~~ 5.226. Application for court order**

26
27 (a) ~~An application for an injunctive or other order against a party or any other~~
28 ~~person, the response thereto, and to the extent that these rules so provide all~~
29 ~~attachments thereto, shall be in the appropriate form prescribed by Chapter 4 of~~
30 ~~these rules. The court may grant or deny the relief solely on the basis of the~~
31 ~~application and responses and any accompanying memorandum of points and~~
32 ~~authorities, and an injunction may be granted under the circumstances and in~~
33 ~~the manner provided by sections 526, 527, 528, and 529 of the Code of Civil~~
34 ~~Procedure, except that~~

1 ~~(1) there shall be no continuance of a hearing granted as a matter of right~~
2 ~~where the court determines that the interests of justice require an~~
3 ~~immediate hearing; and~~

- 4
5 (a) ~~no~~ No memorandum of points and authorities need be filed with an application
6 for a court order unless required by the court on a case-by-case basis.

7
8 *(Subd (a) amended effective January 1, 2003; adopted effective January 1, 1970) previously*
9 ~~*amended effective January 1, 1972, January 1, 1980, and January 1, 1999.*~~

- 10
11 (b) A completed ~~i~~Income and e~~Expense d~~Declaration (form FL-150) or
12 Financial Statement (Simplified) (form FL-155), ~~p~~Property dDeclaration
13 (form FL-160) and ~~a~~Application for oOrder and sSupporting dDeclaration
14 (form FL-320) ~~in the form prescribed by rules 1285.20, 1285.50, 1285.50a,~~
15 ~~1285.50b, 1285.50c, or 1285.52 and 1285.55 shall~~ must be attached to an
16 application for an injunctive or other order when relevant to the relief
17 requested.

18
19 *(Subd (b) amended effective January 1, 2003.)*

- 20
21 (c) A copy of the ~~a~~Application for oOrder and sSupporting dDeclaration with
22 all attachments, ~~a copy of the order endorsed by the clerk if relief is sought~~
23 ~~by order to show cause~~, and a blank copy of the ~~r~~Responsive dDeclaration ~~in~~
24 ~~the form prescribed by rule 1285.40 (form FL-394) shall~~ must be served on the
25 person against whom relief is requested. The original application and order
26 ~~shall~~ must be retained in the court file.

27
28 *(Subd (c) amended effective January 1, 2003.)*

- 29
30 (d) If relief is sought by an Order to Show Cause, a copy of the order endorsed
31 by the clerk must be served.

32
33 *(Subd (d) amended effective January 1, 2003.)*

- 34
35 (e) Blank copies of the ~~i~~Income and eExpense dDeclaration or Financial
36 Statement (Simplified) and the ~~p~~Property dDeclaration ~~in the form prescribed~~
37 ~~by rules 1285.50, 1285.50a, 1285.50b, 1285.50c, or 1285.52 and 1285.55~~
38 ~~shall~~ must be served when completed declarations are among the papers
39 required to be served.

40
41 *(Subd (e) amended effective January 1, 2003; adopted effective January 1, 1972; previously*
42 ~~*amended effective July 1, 1977, January 1, 1980, and January 1, 1999.*~~

1 *Rule ~~1225~~ 5.226 amended and renumbered effective January 1, 2003; adopted as rule 1225*
2 *effective January 1, 1970; previously amended effective January 1, 1972, July 1, 1977, and*
3 *January 1, 1980, and January 1, 1999.*
4

5 **~~Rule 1226. Orders to show cause re contempt~~**
6

7 ~~Every order to show cause re contempt and supporting declaration in a proceeding~~
8 ~~under the Family Code shall be in the form prescribed by rule 1285.60.~~
9

10 *Rule ~~1226~~ 5.228 ~~amended and renumbered~~ repealed effective January 1, 2003; adopted as rule*
11 *1226 effective January 1, 1970; previously amended effective January 1, 1972 and January 1,*
12 *1994.*
13

14 **~~Rule 1227. Responsive pleading~~**
15

16 ~~A responsive pleading may be served and filed within 30 days of the date of the~~
17 ~~service of a copy of the petition or complaint and summons on the respondent or~~
18 ~~defendant.~~
19

20 *Rule 1227 adopted effective January 1, 1970; amended effective January 1, 1999.*
21

22 **~~Rule 1228. [Repealed 2001]~~**
23

24 *Rule 1228 repealed effective January 1, 2001; adopted effective January 1, 1970; previously*
25 *amended effective January 1, 1972, January 1, 1975, and January 1, 1994. The repealed rule*
26 *related to confidential counseling statement (respondent)*
27

28 **~~Rule 1229. Motion to strike~~**
29

30 ~~(a) Neither the petition or the response shall contain any matter not specifically~~
31 ~~required by rule 1281 or rule 1282, respectively. At the request of either party~~
32 ~~upon noticed motion, or on the court's own motion, any matter not so required~~
33 ~~may be stricken by the court or otherwise disregarded by it.~~
34

35 ~~(b) A notice of motion to strike pursuant to this rule shall distinctly specify the~~
36 ~~matter to be stricken and the reasons therefor. Unless it does so, the motion~~
37 ~~may be disregarded by the court.~~
38

39 ~~(c) A motion to strike any matter in a pleading pursuant to this rule does not~~
40 ~~extend the time within which to file a response.~~
41

42 ~~(d) The provisions of sections 435 and 453 of the Code of Civil Procedure do not~~
43 ~~apply to these proceedings.~~

1
2 *Rule 1229 adopted effective January 1, 1970.*
3

4 **Rule 1230. Motion to quash proceeding**
5

6 ~~(a) Within the time permitted to file a response, the respondent may move to quash~~
7 ~~the proceeding, in whole or in part, for any of the following:~~
8

9 ~~(1) Petitioner's lack of legal capacity to sue.~~
10

11 ~~(2) That there is a prior judgment or another action pending between the same~~
12 ~~parties for the same cause.~~
13

14 ~~(3) That the residence required by Family Code section 2320 is lacking.~~
15

16 ~~(4) That Family Code section 2211 prevents maintenance of the proceeding.~~
17

18 ~~A party waives the matters set forth above if they are not raised by filing a~~
19 ~~motion to quash pursuant to this rule within the time permitted to file a~~
20 ~~response.~~
21

22 ~~(b) The notice of motion to quash pursuant to this rule shall specify a hearing date~~
23 ~~not more than 20 days from the date of filing such notice. If the respondent~~
24 ~~files a notice of motion pursuant to this rule, no default may be entered against~~
25 ~~him and his time to file a response shall be extended until 15 days after notice~~
26 ~~of the court's ruling.~~
27

28 ~~(c) A notice of motion to quash pursuant to this rule shall distinctly specify the~~
29 ~~ground upon which the motion is based. Unless it does so, the motion may be~~
30 ~~disregarded by the court.~~
31

32 ~~(d) When a motion to quash pursuant to this rule is based on a matter of which the~~
33 ~~court may take judicial notice pursuant to section 452 or 453 of the Evidence~~
34 ~~Code, such matter shall be specified in the motion or in the supporting~~
35 ~~memorandum of points and authorities for the purpose of invoking such notice~~
36 ~~except as the court may otherwise permit.~~
37

38 *Rule 1230 adopted effective January 1, 1970; amended effective January 1, 1994.*
39

40 **Rule 1231. Filing of response**
41

1 A response may be filed at the same time as a motion to strike pursuant to rule 1229
2 or a motion to quash pursuant to rule 1230, or both, is filed.

3
4 *Rule 1231 adopted effective January 1, 1970.*
5

6 **Rule 1232. Ruling on motion to quash**
7

8 (a) ~~A defense which is raised by a motion to quash pursuant to rule 1230 is not~~
9 ~~waived by later filing a response.~~

10
11 (b) ~~When a motion to quash pursuant to rule 1230 is granted, the court may grant~~
12 ~~leave to amend the petition and shall fix the time within which such~~
13 ~~amendment to the pleading or amended pleading shall be filed. When the court~~
14 ~~makes an order granting a motion to quash pursuant to rule 1230 without leave~~
15 ~~to amend, and the proceeding is dismissed pursuant to rule 1233, the question~~
16 ~~as to whether the court abused its discretion in making the order is open on~~
17 ~~appeal even though no request to amend was made.~~

18
19 (c) ~~When a motion to quash pursuant to rule 1230 is granted and time to amend is~~
20 ~~given, or when such motion is denied and time to respond is given, the time~~
21 ~~given runs from the service of notice of the order unless such notice is waived~~
22 ~~in open court and the waiver entered in the minutes.~~

23
24 *Rule 1232 adopted effective January 1, 1970.*
25

26 **Rule 1233. Dismissal of proceeding**
27

28 A proceeding may be dismissed by the court when a motion to quash pursuant to
29 rule 1230 is sustained without leave to amend, or when, after a motion to quash
30 pursuant to rule 1230 has been sustained with leave to amend, the petitioner fails to
31 amend the petition within the time permitted by the court, and either party moves for
32 such dismissal.

33
34 In other cases, the proceeding may be dismissed under the circumstances and in the
35 manner provided by sections 581, 581c, 581d, and chapter 1.5 (§ 583.110 et seq.) of
36 title 8 of part 2 of the Code of Civil Procedure.

37
38 *Rule 1233 adopted effective January 1, 1970; amended effective January 1, 1986.*
39

40 **Rule 1234. Motion to quash summons**
41

42 In a proceeding under the Family Code, a respondent may serve and file a notice of
43 motion to quash the service of summons upon the ground of lack of jurisdiction of

1 the court over that person or a notice of the filing of a petition for writ of mandate
2 under the circumstances and in the manner provided by section 418.10 of the Code
3 of Civil Procedure.

4
5 *Rule 1234 adopted effective January 1, 1970; amended effective January 1, 1977 and January 1,*
6 *1994.*

7
8 **Rule 1235. Motion to transfer**

9
10 In a proceeding under the Family Code, a respondent may serve and file a notice of
11 motion to transfer the proceeding under the circumstances and in the manner
12 provided by title 4 (commencing with section 392) of part 2 of the Code of Civil
13 Procedure, but there need be no affidavit of merits filed.

14
15 *Rule 1235 adopted effective January 1, 1970; amended effective January 1, 1994.*

16
17 **Rule 1236~~5~~.246. Appearance**

18
19 (a) A respondent or defendant appears in a proceeding when he or she files:

20
21 (1) a response or answer; ~~or~~

22
23 (2) a notice of motion to strike, under section 435 of the Code of Civil
24 Procedure; pursuant to rule 1229, or

25
26 (3) a notice of motion to quash the proceeding ~~pursuant to rule 1230~~based
27 on:

28 (A) petitioner's lack of legal capacity to sue,

29 (B) prior judgment or another action pending between the same
30 parties for the same cause,

31 (C) failure to meet the residence requirement of Family Code section
32 2320,

33 (D) statute of limitations in Family Code section 2211;

34
35 (4) a notice of motion to transfer the proceeding under section 395 of the
36 Code of Civil Procedure pursuant to rule 1235, ;or when the respondent
37 or defendant files

38
39 (5) a written notice of his or her appearance.

40
41 *(Subd (a) amended effective January 1, 2003.)*
42

1 (b) After appearance, the respondent or defendant or his or her attorney is entitled
2 to notice of all subsequent proceedings of which notice is required to be given
3 by these rules or in civil actions generally.
4

5 (c) Where a respondent or defendant has not appeared, notice of subsequent
6 proceedings need not be given to the respondent or defendant except as
7 provided in these rules.
8

9 *Rule ~~1236~~5.246 amended and renumbered effective January 1, 2003; adopted as rule 1236*
10 *effective January 1, 1970; previously amended effective January 1, 1972 and January 1, 1999.*
11

12 **Rule ~~1237~~5.248. Default**
13

14 (a) Upon proper application of the petitioner, if the clerk shall~~must~~ enter the
15 respondent's default the respondent or defendant fails within the time
16 permitted to:

17 (1) make an appearance as set forth in rule ~~respond to file~~5.246;
18

19 (2) file a notice of motion to quash service of summons under section
20 418.10 of the Code of Civil Procedure; or
21

22 (3) file a petition for writ of mandate under section 418.10 of the Code of
23 Civil Procedure; a response, a notice of motion to quash the
24 proceeding, pursuant to rule 1230 a notice of motion to quash service
25 of summons or a notice of the filing of a petition for writ of mandate,
26 pursuant to rule 1234 or a notice of motion to transfer the proceeding,
27 pursuant to rule 1235 the clerk shall enter the respondent's default
28 upon proper application of the petitioner and thereafter the petitioner
29 may apply to the court for the relief sought in the petition.
30

31 *(Subd (a) amended effective January 1, 2003.)*
32

33 (b) The petitioner may apply to the court for the relief sought in the petition at
34 the time default is entered. The court ~~shall~~ must require proof to be made of
35 the facts stated in the petition and may enter its judgment accordingly. The
36 court may permit the use of a completed ~~income and expense~~
37 ~~declaration~~Income and Expense Declaration (form FL-150) or Financial
38 Statement (Simplified) (form FL-155) and ~~property declaration~~Property
39 Declaration (form FL-160) in the form prescribed by rules ~~1285.50 and~~
40 1285.55 as to all or any part of the proof required or permitted to be offered
41 on any issue as to which they are relevant.
42

1 *Rule 1237 5.248 amended and renumbered January 1, 2003; adopted as rule 1237 effective*
2 *January 1, 1970; previously amended effective January 1, 1972 and January 1, 1980.*
3

4 **Rule 1238. Statements of fact**
5

6 ~~Unless controverted in the response, or unless a motion to quash pursuant to rule~~
7 ~~1230(a)(3).be made, every material statement of fact in the petition shall be taken as~~
8 ~~true for the purpose of the proceeding. All statements of fact and requests for relief~~
9 ~~contained in the response shall be deemed controverted. There shall be no reply by~~
10 ~~petitioner to such matters except as permitted by rule 1239..~~

11
12 *Rule 1238 adopted effective January 1, 1970.*
13

14 **Rule 1239. Motion to quash responsive relief**
15

16 ~~(a) Within 15 days after the filing of the response, the petitioner may move to~~
17 ~~quash, in whole or in part, any request for affirmative relief in the response for~~
18 ~~any of the following:~~

19
20 ~~(1) Respondent's lack of legal capacity to sue.~~

21
22 ~~(2) That there is a prior judgment or another action pending between the same~~
23 ~~parties for the same cause.~~

24
25 ~~(3) That the residence required by Family Code section 2320 is lacking.~~

26
27 ~~(4) That Family Code section 2211 prevents maintenance of the proceeding.~~

28
29 ~~The petitioner waives the matters set forth above if they are not raised within~~
30 ~~15 days after the filing of the response.~~

31
32 *(Subd (a) amended effective January 1, 1994.)*
33

34 ~~(b) The notice of motion to quash pursuant to this rule shall specify a hearing date~~
35 ~~not more than 20 days from the date of filing such notice.~~

36
37 ~~(c) A notice of motion to quash pursuant to this rule shall distinctly specify the~~
38 ~~ground upon which the motion is based. Unless it does so, the motion may be~~
39 ~~disregarded by the court.~~

40
41 ~~(d) When a motion to quash pursuant to this rule is based on a matter of which the~~
42 ~~court may take judicial notice pursuant to section 452 or 453 of the Evidence~~
43 ~~Code, such matter must be specified in the motion or in the supporting~~

1 memorandum of points and authorities for the purpose of invoking such notice
2 except as the court may otherwise permit.

3
4 ~~(e) When a motion to quash pursuant to this rule is granted, the court may grant~~
5 ~~leave to amend the response and shall fix the time within which such~~
6 ~~amendment to the pleading or amended pleading shall be filed. The time given~~
7 ~~runs from the service of notice of the order unless such notice is waived in~~
8 ~~open court and the waiver entered in the minutes.~~

9
10 ~~(f) When the court makes an order granting a motion to quash pursuant to this rule~~
11 ~~without leave to amend, and the proceeding is dismissed pursuant to~~
12 ~~subdivision (g), the question as to whether the court abused its discretion in~~
13 ~~making the order is open on appeal even though no request to amend was~~
14 ~~made.~~

15
16 ~~(g) The request for affirmative relief by the respondent may be dismissed by the~~
17 ~~court when a motion to quash pursuant to this rule is sustained without leave to~~
18 ~~amend, or when, after a motion to quash pursuant to this rule has been~~
19 ~~sustained with leave to amend, the respondent fails to amend it within the time~~
20 ~~permitted by the court, and either party moves for such dismissal.~~

21
22 In other cases, the request for affirmative relief by the respondent may be
23 dismissed under the circumstances and in the manner provided by sections 581,
24 581c, 581d, and chapter 1.5 (§ 583.110 et seq.) of title 8 of part 2 of the Code
25 of Civil Procedure.

26
27 ~~(Subd (g) amended effective January 1, 1986.)~~

28
29 ~~Rule 1239 adopted effective January 1, 1970; amended effective January 1, 1986 and January 1,~~
30 ~~1994.~~

31
32 **Rule 12405.254. Request for default**

33
34 (a) No default may be entered in any proceeding unless a request ~~in the form~~
35 ~~prescribed by rule 1286 (using form FL-165)~~ has been completed in full on a
36 Request to Enter Default (form FL-165) and filed by the petitioner. However,
37 an Income and Expense Declaration (form FL-150) or Financial Statement
38 (Simplified) (form FL-155) are not required if the petition contains no demand
39 for support, costs, or attorney's fees. A Property Declaration (form FL-160) is
40 not required if but no financial declaration is required when the petition
41 contains no demand for money, property, , costs, or attorney's fees.

42
43 ~~(Subd (a) amended effective January 1, 2003.)~~

- 1
- 2 (b) For the purpose of completing the declaration of mailing, unless service was by
- 3 publication and the address of respondent is unknown, it is not sufficient to
- 4 state that the address of the party to whom notice is given is unknown or
- 5 unavailable.
- 6

7 *Rule 12405.254 amended and renumbered effective January 1, 2003; adopted as rule 1240*

8 *effective January 1, 1970; previously amended effective January 1, 1979 and January 1, 1980.*

9

10 **Rule 1241. Uncontested proceeding**

11

12 ~~In the following cases, which shall be treated as uncontested matters, the same~~

13 ~~procedure shall be followed and judgment shall be rendered in the same manner as if~~

14 ~~a default had been entered:~~

15

16 ~~(a) If the respondent fails to file a response within the time permitted by the court~~

17 ~~after a motion to quash pursuant to rule 1230 is granted or denied, in whole or~~

18 ~~in part, and the proceeding is not dismissed pursuant to rule 1233.~~

19

20 ~~(b) If the respondent fails to file a response within the time permitted by the court~~

21 ~~after denial of a motion to quash service of summons or denial of a writ of~~

22 ~~mandate, as provided in rule 1234.~~

23

24 ~~(c) If the respondent fails to file a response within the time permitted after a ruling~~

25 ~~by the court on a motion to transfer pursuant to rule 1235.~~

26

27 ~~(d) If the respondent files written notice of his appearance.~~

28

29 ~~(e) If the respondent has appeared and the parties have stipulated that the matter be~~

30 ~~so treated.~~

31

32 *Rule 1241 adopted effective January 1, 1970; previously amended effective January 1, 1972.*

33

34 **Rule 1242. Division of property**

35

36 ~~The court in every action for dissolution, nullity, or legal separation shall ascertain~~

37 ~~the nature and extent of all assets and obligations subject to disposition by the court~~

38 ~~in the proceeding and shall divide these assets and obligations as provided in the~~

39 ~~Family Code, except upon the written agreement of the parties or an oral stipulation~~

40 ~~of the parties made in open court. The court may require that any agreement be~~

41 ~~submitted to verify that there is no property subject to disposition by the court.~~

42

~~Rule 1242 adopted effective January 1, 1970; previously amended effective January 1, 1972,
January 1, 1994, and January 1, 1999.~~

Rule 1242.5.260. Alternate date of valuation

- (a) **[Notice of motion]** ~~The An Form FL-325 Application for Separate Trial (form FL-325) must be used to provide the notice referred required by to in Family Code § section 2552(b). shall consist of a noticed motion served upon all parties in the form prescribed by rule 1286.75.~~

(Subd (a) amended effective January 1, 2003.)

- (b) **[Declaration accompanying notice]** ~~In addition to the requirements of rule 1286.75 Form FL-325, the notice shall must be accompanied by a declaration which sets forth the following stating the following:~~

- (1) The proposed alternate valuation date;
- (2) Whether the proposed alternate valuation date ~~shall apply~~ applies to all or only a portion of the assets and, if the motion is directed to only a portion of the assets, the declaration must separately identify each such asset; and
- (3) The reasons supporting the alternate valuation date.

(Subd (b) amended effective January 1, 2003.)

~~Rule 1242.55.260 amended and renumbered effective January 1, 2003; adopted as rule 1242.5 effective July 1, 1995.~~

Rule 12435.262. Financial declaration

- (a) A current ~~iIncome and eExpense dDeclaration~~ (form FL-150) or a current Financial Statement (Simplified) (form FL-155) when such form is appropriate, and a current ~~pProperty dDeclaration in the form prescribed by rules 1285.50, 1285.50a, 1285.50b, 1285.50c, 1285.52, and 1285.55 (form FL-160) shall must~~ be served and filed by any party appearing at any hearing at which the court is to determine an issue as to which such declarations would be relevant. Current is defined as being completed within the last three months providing no facts have changed. Those forms , and so much thereof shall must be sufficiently completed as is applicable to allow determination of the issue. to be determined except that, unless otherwise ordered by the court in which the proceeding is pending, the income and expense declaration, or Financial Statement (Simplified) need not be completed for any hearing on the merits

1 when the matter is to be disposed of by default pursuant to rule 1237 or as an
2 uncontested proceeding pursuant to rule 1241.

3
4 *(Subd (a) amended effective January 1, 2003.)*
5

6 (b) When a party is represented by counsel and attorney's fees are requested by
7 either party, ~~item 19 of the income information attachment to the income and~~
8 ~~expense declaration and item 4 on the expense information attachment shall be~~
9 ~~fully completed~~ the section on the *Income and Expense Declaration* pertaining
10 to the amount in savings, credit union, certificates of deposit, and money market
11 accounts must be fully completed, as well as the section pertaining to the
12 amount of attorney's fees incurred, currently owed, and the source of money
13 used to pay such fees. A *Financial Statement (Simplified)* is appropriate for use
14 when a party's sole income is from salary, wages, disability benefits,
15 unemployment insurance, workers' compensation, Social Security, retirement
16 benefits, or public assistance.
17

18 *(Subd (b) amended effective January 1, 2003.)*
19

20 (c) A *Financial Statement (Simplified)* is not appropriate for use in proceedings to
21 determine or modify spousal support or to determine attorney's fees.
22

23 *(Subd (c) amended effective January 1, 2003.)*
24

25 *Rule 12435.262 amended and renumbered January 1, 2003; adopted as rule 1243 effective*
26 *January 1, 1970; previously amended effective January 1, 1972, January 1, 1980, July 1, 1985,*
27 *and January 1, 1999.*
28

29 **Rule 12715.264. Commencing the proceedingSummary Dissolution**
30

31 (a) ~~A proceeding for summary dissolution is commenced by completing and filing~~
32 ~~in the superior court a joint petition for summary dissolution on form FL-700.~~
33

34 (a) **[Declaration of disclosure]** For the purposes of a proceeding for summary
35 dissolution under chapter 5 (beginning with Section 2400) of Part 3 of division
36 6 of the Family Code, Attachment to the petition of completed worksheet
37 pages listing separate and community property and obligations shall as well as
38 an *Income and Expense Declaration* (form FL-150) or *Financial Statement*
39 *(Simplified)* (form FL-155) constitutes compliance with the disclosure
40 requirements set out at of chapter 9 (beginning with section 2100) of part 1 of
41 division 6 of the Family Code.
42

(Subd (ba) amended effective January 1, 2003; adopted effective January 1, 1993 as rule 1271; previously amended effective January 1, 1994.)

(eb) **[Fee for filing]** The fee for filing ~~thea joint~~ Joint ~~petition~~ Petition ~~shall for for~~ summary Summary dissolution-Dissolution of Marriage (on form FL-700) is the same as that charged for filing a ~~p~~ Petition ~~in the form prescribed by rule 1281~~ (form FL-100.) No additional fee ~~shall~~ may be charged for the filing of any form prescribed for use in a summary dissolution proceeding, except as required by Government Code section 26859.

(Subd (eb) amended effective January 1, 2003; adopted effective January 1, 1979, as rule 1271 subd (b), relettered effective January 1, 1993.)

~~Rule 1271~~ 5.264 ~~amended and renumbered effective January 1, 2003; adopted as rule 1271~~ effective January 1, 1979; previously amended effective January 1, 1993 and January 1, 1994.

~~Rule 1244. Judgment~~

~~If the court finds that a judgment altering the marital status of parties is appropriate, the court shall render its judgment in the form prescribed by rule 1287.~~

~~Rule 1244 adopted as rule 1244 effective January 1, 1970; amended effective July 1, 1985.~~

~~Rule 1245. Request for final judgment~~

~~In any proceeding for dissolution of marriage in which an interlocutory judgment of divorce was entered prior to January 1, 1970, or in which an interlocutory judgment of dissolution is entered after January 1, 1970, and prior to July 1, 1984, the party applying for a final judgment of dissolution shall submit to the court a Request and Declaration for Final Judgment in the form prescribed by rule 1288. The judgment of dissolution shall be in the form prescribed by rule 1287.~~

~~Rule 1245 adopted effective January 1, 1970; amended effective July 1, 1984.~~

~~Rule 1246. [Repealed 1985]~~

~~Adopted effective January 1, 1970; amended effective January 1, 1972; repealed effective July 1, 1985. The repealed rule related to notice of entry of interlocutory judgment.~~

~~Rule 1247~~ 5.266. Notice of entry of judgment

(a) Notwithstanding Code of Civil Procedure section 664.5, the clerk ~~shall~~ must give notice of entry of judgment, using form FL-190, Notice of Entry of

Judgment to the attorney for each party or to the party if unrepresented, of the following:

- (1) a judgment of legal separation;
- (2) a final judgment of dissolution;
- (3) a judgment of nullity; or
- (4) a judgment establishing parental relationship in the form prescribed by rule 1290 (on form FL-190) to the attorney for each party, or to the party if unrepresented; or
- (5) a judgment regarding custody or support.

(Subd (a) amended effective January 1, 2003.)

- (b) This rule ~~shall apply~~ ies to district attorney support local child support agency proceedings except that the notice of entry of judgment ~~shall~~ must be ~~in the form prescribed by rule 1299.16 on form FL-635, Notice of Entry of Judgment and Proof of Service by Mail.~~

(Subd (b) amended effective January 1, 2003.)

Rule ~~1247~~ 5.266 amended and renumbered effective January 1, 2003; adopted as rule 1247 effective July 1, 1970; previously amended effective January 1, 1972, January 1, 1982 and January 1, 1999.

Rule ~~1248~~ 5.268. Completion of notice of entry of judgment

- (a) **[Required attachments]** Every person who submits a judgment for signature by the court ~~shall~~ must submit:
- (1) ~~stamped envelopes addressed to the parties. In support proceedings initiated by the district attorney local child support agency an envelope addressed to the district attorney local child support agency need not be submitted.~~

(2) An original and sufficient at least two additional copies for each party of the Notice of Entry of Judgment of a notice of entry of judgment (form FL-190) in the form prescribed by rule 1290 must be submitted with any judgment submitted under (a)

(Subd (a) amended effective January 1, 2003.)

- (b) **[Fully completed]** ~~The Notice of Entry of Judgment form Form FL-190~~ must be fully completed except for the designation of the date entered, the date of mailing, and signatures., and it shall must specify in the certificate of mailing the place where notices have been given to the other party. ~~or, if~~

1
2 *(Subd (b) amended effective January 1, 2003.)*
3

- 4 (c) **[Address of respondent or defendant]** If there has been no appearance by
5 the other party, the address stated in the affidavit of mailing in Part 3 ~~of the~~
6 ~~request to enter default, which of the~~ *Request to Enter Default* (form FL-165)
7 ~~shall~~ must be the party's last known address and must be used for mailing the
8 ~~Notice of Entry of Judgment form~~ form FL-190 to that party. If service was
9 by publication and the address of respondent or defendant is unknown, those
10 facts ~~shall~~ must be stated in place of the required address.
11

12 *(Subd (c) amended effective January 1, 2003.)*
13

- 14 (d) **[Consequences of failure to comply]** Failure to complete the form or to
15 submit the envelopes ~~shall be~~ is cause for refusal to sign the judgment until
16 compliance with the requirements of this rule.
17

18 *(Subd (d) amended effective January 1, 2003.)*
19

- 20 (e) **[Application to local child support agencies]** This rule ~~shall~~ applies to
21 ~~district attorney~~ local child support agency proceedings filed under the
22 ~~Welfare and Institutions~~ Family Code except that:
23

24 (1) The ~~district attorney~~ local child support agency ~~shall~~ must use ~~the~~ form
25 ~~prescribed by rule 1299.16.~~ FL-635, Notice of Entry of Judgment and Proof
26 of Service by Mail
27

28 (2) The ~~district attorney~~ local child support agency may specify in the
29 certificate of mailing that the address where the notice of entry of judgment
30 was mailed is on file with the ~~district attorney~~ local child support agency; and
31

32 (3) An envelope addressed to the local child support agency need not be
33 submitted.
34

35 *(Subd (e) amended effective January 1, 2003.)*
36

37 *Rule 12485.268 amended and renumbered effective January 1, 2003; adopted as rule 1248*
38 *effective January 1, 1970; previously amended effective January 1, 1972, January 1, 1980, July*
39 *1, 1982, and January 1, 1999.*
40

41 **Rule 12495.272. Implied procedures**
42

1 In the exercise of the court's jurisdiction ~~pursuant to~~ under the Family Code, if the
2 course of proceeding is not specifically indicated by statute or these rules, any
3 suitable process or mode of proceeding may be adopted by the court ~~which that~~
4 ~~appears conformable to~~ is consistent with the spirit of the Family Code and these
5 rules.

6
7 *Rule ~~1249~~5.272 amended and renumbered effective January 1, 2003; adopted as rule 1249*
8 *effective January 1, 1970; amended effective January 1, 1994.*
9

10 **CHAPTER 2.53.0. Joinder of Parties**

11 Title Five, Special Rules for Trial Courts—Division Ia, Family Law Rules—Chapter 2.53.0,
12 Joinder of Parties; adopted effective January 1, 1970.

13 ***Rule ~~1250~~5.300. Joinder of persons claiming interest***

14 ***Rule ~~1251~~5.305. "Claimant" defined***

15 ***Rule ~~1252~~5.310. Persons who may seek joinder***

16 ***Rule ~~1253~~5.315. Form of joinder application***

17 ***Rule ~~1254~~5.320. Determination on joinder***

18 ***Rule ~~1255~~5.325. Pleading rules applicable***

19 ***Rule ~~1256~~5.330. Joinder of employee pension benefit plan***

20
21 ***Rule ~~1250~~5.300. Joinder of persons claiming interest***

22
23 Notwithstanding any other rule in this division, a person who claims or controls an
24 interest subject to disposition in the proceeding may be joined as a party to the
25 proceeding only as provided in this chapter. Except as otherwise provided in this
26 chapter, all provisions of law relating to joinder of parties in civil actions generally
27 apply to the joinder of a person as a party to the proceeding.

28
29 *Rule ~~1250~~5.300 renumbered effective January 1, 2003; adopted as rule 1250 effective November*
30 *23, 1970; amended effective January 1, 1978.*
31

32 ***Rule ~~1251~~5.305. "Claimant" defined***

33
34 As used in this chapter, "claimant" means a person joined or sought or seeking to be
35 joined as a party to the proceeding.

36
37 *Rule ~~1251~~5.305 renumbered effective January 1, 2003; adopted as rule 1251 effective November*
38 *23, 1970; amended effective January 1, 1972.*
39

40 ***Rule ~~1252~~5.310. Persons who may seek joinder***

1 (a) The petitioner or the respondent may apply to the court for an order joining a
2 person as a party to the proceeding who has or claims custody or physical
3 control of any of the minor children of the marriage or visitation rights with
4 respect to such children or who has in his or her possession or control or
5 claims to own any property subject to the jurisdiction of the court in the
6 proceeding.

7
8 *(Subd (a) amended effective January 1, 2003.)*
9

10 (b) A person who has or claims custody or physical control of any of the minor
11 children of the marriage or visitation rights with respect to such children may
12 apply to the court for an order joining him or her as a party to the proceeding.

13
14 *(Subd (b) amended effective January 1, 2003.)*
15

16 (c) A person served with an order temporarily restraining the use of property in his
17 or her possession or control or which he or she claims to own, or affecting the
18 custody of minor children of the marriage or visitation rights with respect to
19 such children, may apply to the court for an order joining him or her as a party
20 to the proceeding.

21
22 *(Subd (c) amended effective January 1, 2003.)*
23

24 *Rule 12525.310 amended and renumbered effective January 1, 2003; adopted as rule 1252*
25 *effective November 23, 1970; amended effective July 1, 1975.*
26

27 **Rule 12535.315. Form of joinder application**
28

29 (a) ~~[Method of joinder and hearing date]~~ An employee pension benefit plan shall
30 be joined as provided in Article 1 (commencing with Section 2060) of Chapter
31 6 of Part 1 of Division 6 of the Family Code and rule 1256. All
32 other applications for joinder other than for an employee pension benefit plan
33 ~~shall~~ must be made by service serving and filing ~~a notice of motion that~~
34 ~~specifies a~~ form FL-371, Notice of Motion and Declaration for Joinder. The
35 hearing date ~~not more than~~ must be less than 30 days from the date of filing the
36 notice. The ~~application completed form~~ shall must state with particularity the
37 claimant's interest in the proceeding and the relief sought by the applicant, and
38 it ~~shall~~ must be accompanied by an appropriate pleading setting forth the claim
39 as if it were asserted in a separate action or proceeding.
40

41 (b) A blank copy of form FL-373, Responsive Declaration to Motion for Joinder
42 and Consent Order for Joinder must be served with the Notice of Motion and
43 accompanying pleading.

1
2 (Subd (a) amended effective January 1, 2003; adopted effective November 23, 1970;
3 previously amended effective January 1, 1972, January 1, 1978, January 1, 1979, January 1,
4 1994, and January 1, 2001.)

5
6 ~~(b) **[Form specified]** Every application for joinder, except for joinder of an~~
7 ~~employee pension benefit plan, and every response thereto, order for joinder,~~
8 ~~and summons issued thereon shall be in the form prescribed by rules 1291,~~
9 ~~1291.10, 1291.20, and 1291.40.~~

10
11 ~~(Subd (b) amended effective; adopted effective January 1, 1972; previously amended~~
12 ~~effective January 1, 1978, January 1, 1979, July 1, 1985 and January 1, 2001.)~~

13
14 Rule 12535.315 amended and renumbered effective January 3, 2003; adopted as rule 1253
15 effective November 23, 1970; previously amended effective January 1, 1972, January 1, 1978,
16 January 1, 1979, July 1, 1985, January 1, 1994 and January 1, 2001.

17
18 **Rule 12545.320. Determination on joinder**

19
20 (a) **[Mandatory joinder]** The court ~~shall~~must order joined as a party to the
21 proceeding any person the court discovers has physical custody or claims
22 custody or visitation rights with respect to any minor child of the marriage.

23
24 (Subd (a) amended effective January 1, 2003.)

25
26 (b) **[Permissive joinder]** The court may order that a person be joined as a party to
27 the proceeding if the court finds that it would be appropriate to determine the
28 particular issue in the proceeding and that the person to be joined as a party is
29 either indispensable to a determination of that issue or necessary to the
30 enforcement of any judgment rendered on that issue.

31
32 In determining whether it is appropriate to determine the particular issue in the
33 proceeding, the court ~~shall~~must consider its effect upon the proceeding, ~~the~~
34 ~~court shall consider its effect upon the proceeding, including:~~

- 35
36 (1) whether the determination of that issue will unduly delay the disposition
37 of the proceeding,
38 (2) whether other parties would need to be joined to render an effective
39 judgment between the parties,
40 (3) whether the determination of that issue will confuse other issues in the
41 proceeding, and

- 1 (4) whether the joinder of a party to determine the particular issue will
2 complicate, delay, or otherwise interfere with the effective disposition of
3 the proceeding.
4

5 *(Subd (b) amended effective January 1, 2003.)*
6

- 7 (c) **Procedure upon joinder** If the court orders that a person be joined as a party
8 to the proceeding pursuant to under subdivision (a) of rule 12525.310, the court
9 shall must direct that an appropriate summons be issued on form FL-375 and
10 that the claimant be served with a copy of the application for joinder form FL-
11 371, the pleading attached thereto, the order of joinder, and the summons. The
12 claimant has 30 days after service within which to file an appropriate response.
13

14 *(Subd (c) amended effective January 1, 2003.)*
15

16 *Rule 1254 5.320 amended and renumbered effective January 1, 2003; adopted as rule 1254*
17 *effective November 23, 1970; amended effective July 1, 1975.*
18

19 **Rule 12555.325. Pleading rules applicable**
20

21 Except as otherwise provided in this chapter or by the court in which the proceeding
22 is pending, the law applicable to civil actions generally shall governs all pleadings,
23 motions, and other matters pertaining to that portion of the proceeding as to which a
24 claimant has been joined as a party to the proceeding in the same manner as if a
25 separate action or proceeding not subject to these rules had been filed.
26

27 *Rule 12555.325 amended and renumbered effective January 1, 2003; adopted as rule 1255*
28 *effective November 23, 1970.*
29

30 **Rule 12565.330. Joinder of employee pension benefit plan**
31

- 32 (a) Every request for joinder of employee pension benefit plan and order and every
33 pleading on joinder shall must be in the form prescribed by rules 1291.15 and
34 1291.35 be submitted on forms FL-372 and FL-370.
35
36 (b) Every summons issued thereon on the joinder of employee pension benefit plan
37 shall must be in the form prescribed by rule 1291.40 on form FL-375.
38
39 (c) Every notice of appearance of employee pension benefit plan and responsive
40 pleading file pursuant to under Family Code section 2063(b) shall must be in the
41 form prescribed by rule 1291.25 given on form FL-374.
42

1 *Rule ~~1256~~5.330 amended and renumbered effective January 1, 2003; adopted as rule 1256*
2 *effective January 1, 1979; previously amended effective January 1, 1994.*
3

4 **CHAPTER 3.25. Bifurcation and Appeals**

5 Title Five, Special Rules for Trial Courts—Division ~~Ib~~a, Family Law Rules—Chapter 3.25,
6 Bifurcation and Appeals; adopted effective July 1, 1989.

7
8 ***Rule ~~1269~~5.350. Bifurcation of issues***

9 ***Rule ~~1269-55~~360. Interlocutory appeals***

10
11 ***Rule ~~1269~~5.350. Bifurcation of issues***

12
13 (a) **[Bifurcation of issues]** On noticed motion of a party, the stipulation of the
14 parties, or its own motion, the court may bifurcate one or more issues to be
15 tried separately before other issues are tried. The motion ~~shall~~must be heard not
16 later than the trial-setting conference.

17
18 (b) The clerk ~~shall~~must mail copies of the order deciding the bifurcated issue and
19 any statement of decision under rule 232.5 to the parties within 10 days of their
20 filing, and must file a certificate of mailing.

21
22 (*Subd (a) amended effective January 1, 2003; previously amended effective January 1,*
23 *1994.*)

24
25 (c) **[When to bifurcate]** The court may try separately one or more issues before
26 trial of the other issues if resolution of the bifurcated issue is likely to simplify
27 the determination of the other issues. Issues that may, ~~in some cases,~~ be
28 appropriate to try separately in advance include:

- 29
30 (1) Validity of a postnuptial or premarital agreement;
31
32 (2) Date of separation;
33
34 (3) Date to use for valuation of assets;
35
36 (4) Whether property is separate or community;
37
38 (5) How to apportion increase in value of a business;
39
40 (6) Existence or value of business or professional goodwill.
41

1 (Subd (b) amended effective January 1, 2003.)

2
3 Rule ~~1269~~5.350 amended and renumbered effective January 1, 2003; adopted as rule 1269
4 effective July 1, 1989; previously amended effective January 1, 1994.

5
6 **Rule ~~1269~~5.360. Interlocutory appeals**

7
8 (a) **[Applicability]** This rule does not apply to appeals from the court's
9 termination of marital status as a separate issue, or to appeals from other orders
10 that are separately appealable.

11
12 (Subd (a) amended effective January 1, 1994.)

13
14 (b) **[Certificate of probable cause for appeal]**

- 15
16 (1) The order deciding the bifurcated issue may, ~~at the judge's~~
17 ~~discretion,~~ include an order certifying that there is probable cause for
18 immediate appellate review of the issue.
19 (2) If it was not in the order, within 10 days after the clerk mails the order
20 deciding the bifurcated issue, a party may notice a motion ~~requesting~~
21 asking the court to certify that there is probable cause for immediate
22 appellate review of the order. The motion must be heard within 30 days
23 after the order deciding the bifurcated issue is mailed.
24 (3) The clerk must promptly mail notice of the decision on the motion to the
25 parties. If the motion is not determined within 40 days after mailing of the
26 order on the bifurcated issue, it is deemed granted on the grounds stated
27 in the motion.

28
29 (Subd (b) amended effective January 1, 2003, previously amended effective January 1,
30 2002.)

31
32 (c) **[Content and effect of certificate]**

- 33
34 (1) A certificate of probable cause must state, in general terms, the reason
35 immediate appellate review is desirable, such as a statement that final
36 resolution of the issue
37
38 (A) is likely to lead to settlement of the entire case;
39
40 (B) will simplify remaining issues;
41
42 (C) will conserve the courts' resources; or

1 (D) will benefit the well-being of a child of the marriage or the parties.
2

- 3 (2) If a certificate is granted, trial of the remaining issues may be stayed. If
4 trial of the remaining issues is stayed, unless otherwise ordered by the trial
5 court on noticed motion, further discovery must be stayed while the
6 certification is pending. These stays terminate upon the expiration of time
7 for filing a motion to appeal if none is filed, or upon the Court of Appeal
8 denying all motions to appeal, or upon the Court of Appeal decision
9 becoming final.

10
11 *(Subd (c) amended effective January 1, 2003, previously amended effective January 1, 2002.)*
12

13 **(d) [Motion to appeal]**
14

- 15 (1) If the certificate is granted, a party may within 15 days after the mailing
16 of the notice of the order granting it serve and file in the Court of Appeal
17 a motion to appeal the decision on the bifurcated issue. On ex parte
18 application served and filed within 15 days, the Court of Appeal or the
19 trial court may extend the time for filing the motion to appeal by not more
20 than an additional 20 days.

- 21
22 (2) The motion must contain
23

24 (A) a brief statement of the facts necessary to an understanding of the
25 issue;
26

27 (B) a statement of the issue; and
28

29 (C) a statement of why, in the context of the case, an immediate appeal
30 is desirable.
31

- 32 (3) The motion must include or have ~~annexed~~attached
33

34 (A) a copy of the decision of the trial court on the bifurcated issue;
35

36 (B) any statement of decision;
37

38 (C) the certification of the appeal; and a sufficient partial record to
39 enable the Court of Appeal to determine whether to grant the
40 motion.
41

- (4) A summary of evidence and oral proceedings, if relevant, supported by a declaration of counsel may be used when a transcript is not available.
- (5) The motion must be accompanied by the filing fee for an appeal under rule 1(c) and Government Code sections 68926 and 68926.1.
- (6) A copy of the motion must be served on the trial court.

(Subd (d) amended effective January 1, 2002.)

(e) [Proceedings to determine motion]

- (1) Within 10 days after service of the motion, an adverse party may serve and file an opposition to it.
- (2) The motion to appeal and any opposition will be submitted without oral argument, unless otherwise ordered.
- (3) The motion to appeal is deemed granted unless it is denied within 30 days from the date of filing the opposition or the last document requested by the court, whichever is later.
- (4) Denial of a motion to appeal is final forthwith and is not subject to rehearing. A party aggrieved by the denial of the motion may petition for review by the Supreme Court.

(Subd (e) amended effective January 1, 2002.)

(f) [Proceedings if motion to appeal is granted]

- (1) If the motion to appeal is granted, the moving party is deemed an appellant, and the rules governing other civil appeals apply except as provided in this rule.
- (2) The partial record filed with the motion will be considered the record for the appeal unless, within 10 days from the date notice of the grant of the motion is mailed, a party notifies the Court of Appeal of additional portions of the record that are needed for a full consideration of the appeal.
- (3) If a party notifies the court of the need for an additional record, the additional material must be secured from the trial court by augmentation under rule 12, unless it appears to the Court of Appeal that some of the

1 material is not needed.

- 2
- 3 (4) Briefs must be filed ~~pursuant to~~ under a schedule set for the matter by the
- 4 Court of Appeal.
- 5

6 *(Subd (f) amended effective January 1, 2003, previously amended effective January 1, 2002.*

7

- 8 (g) **[Review by writ or appeal]** The trial court's denial of a certification motion
- 9 under (b) does not preclude review of the decision on the bifurcated issue by
- 10 extraordinary writ.
- 11

12 *(Subd (g) amended effective January 1, 2002.)*

13

- 14 (h) **[Review by appeal]** None of the following precludes review of the decision on
- 15 the bifurcated issue upon appeal of the final judgment:
- 16

17 (1) A party's failure to move for certification under (b) for immediate appeal;

18

19 (2) The trial court's denial of a certification motion under (b) for immediate

20 appeal;

21

22 (3) A party's failure to move to appeal under (d); and

23

24 (4) The Court of Appeal's denial of a motion to appeal under (d).

25

26 *Rule ~~1269.5~~ 5.360 amended and renumbered effective January 1, 2003; adopted as rule 1269.5*

27 *effective July 1, 1989; previously amended January 1, 1994 and January 1, 2002.*

28

29 **CHAPTER ~~2.64.0~~. Child Custody**

30 ~~Chapter 2.6~~ Title Five, Special Rules for Trial Courts—Division Iba, Family Law Rules—Chapter

31 ~~2.64.0, Child Custody; adopted effective January 1, 1993; amended effective January 1, 1999;~~

32 ~~adopted effective January 1, 1993.~~

33 **~~Rule 1257. [Repealed 1999]~~**

34

35 **~~Rule 1257. [Repealed 1999]~~**

36

37 *~~Rule 1257 repealed effective January 1, 1999; amended effective January 1, 1994; adopted~~*

38 *~~effective January 1, 1993.~~*

39

40 **Rule 5.410. Court-connected child custody mediation**

41 **Rule 5.415. Domestic violence protocol for Family Court Services**

Rule 5.420. Court-ordered child custody evaluations

1
2 **Rule ~~1257.15.410~~. Uniform standards of practice for eCourt-connected child custody**
3 **mediation**
4

5 (a) **[Authority]** This rule of court is adopted under article VI, section 6 of the
6 California Constitution and Family Code sections 211, 3160, and 3162(a).
7

8 (b) **[Purpose]** This rule sets forth standards of practice and administration for
9 court-connected child custody mediation services that are consistent with the
10 requirements of Family Code section 3161.
11

12 (c) **[Definitions]**
13

14 (1) “Best interest of the child” is defined in Family Code section 3011.
15

16 (2) “Parenting plan” is a plan describing how parents or other appropriate
17 parties will share and divide their decision making and caretaking
18 responsibilities to protect the health, safety, welfare, and best interest of
19 each child who is a subject of the proceedings.
20

21 (d) **[Responsibility for mediation services]**
22

23 (1) Each court ~~shall~~must ensure that:
24

25 (A) Mediators are impartial, competent, and uphold the standards of
26 practice contained in this rule of court.
27

28 (B) Mediation services and case management procedures implement
29 state law and allow sufficient time for parties to receive orientation,
30 participate fully in mediation, and develop a comprehensive
31 parenting plan without unduly compromising each party’s right to
32 due process and a timely resolution of the issues.
33

34 (C) Mediation services demonstrate accountability by:
35

36 (i) Providing for acceptance of and response to complaints about a
37 mediator’s performance;
38

39 (ii) Participating in statewide data collection efforts; and
40

41 (iii) Disclosing the use of interns to provide mediation services.
42

- 1 (D) The mediation program uses a detailed intake process that screens
2 for, and informs the mediator about, any restraining orders or safety-
3 related issues affecting any party or child named in the proceedings
4 to allow compliance with relevant law or court rules before
5 mediation begins.
6
- 7 (E) Whenever possible, mediation is available from bilingual mediators
8 or other interpreter services that meet the requirements of Evidence
9 Code sections 754(f) and 755(a) and section 18 of the California
10 Standards of Judicial Administration.
11
- 12 (F) Mediation services protect, in accordance with existing law, party
13 confidentiality, in:
14
- 15 (i) Storage and disposal of records and any personal information
16 accumulated during the mediation process;
17
- 18 (ii) Interagency coordination or cooperation regarding a particular
19 family or case; and
20
- 21 (iii) Management of child abuse reports and related documents.
22
- 23 (G) Mediation services provide a written description of limitations on the
24 confidentiality of the process.
25
- 26 (H) Within one year of the adoption of this rule, the court adopts a local
27 court rule regarding ex parte communications.
28
- 29 (2) Each court-connected mediator ~~shall~~must:
30
- 31 (A) Maintain an overriding concern to integrate the child's best interest
32 within the family context;
33
- 34 (B) Inform the parties and any counsel for a minor child if the mediator
35 will make a recommendation to the court as provided under Family
36 Code section 3184;
37
- 38 (C) Use reasonable efforts and consider safety issues to:
39
- 40 (i) Facilitate the family's transition and reduce acrimony by
41 helping the parties improve their communication skills, focus

1 on the child's needs and areas of stability, identify the family's
2 strengths, and locate counseling or other services;

3
4 (ii) Develop a comprehensive parenting agreement that addresses
5 each child's current and future developmental needs; and

6
7 (iii) Control for potential power imbalances between the parties
8 during mediation.
9

10 *(Subd (d) amended effective January 1, 2003.)*
11

12 (e) **[Mediation process]** All court-connected mediation processes ~~shall~~must be
13 conducted in accordance with state law and include:

14
15 (1) Review of the intake form and court file, if available, before the start of
16 mediation;

17
18 (2) Oral or written orientation or parent education that facilitates the parties'
19 informed and self-determined decision making about:

20
21 (A) The types of disputed issues generally discussed in mediation and
22 the range of possible outcomes from the mediation process;

23
24 (B) The mediation process, including the mediator's role; the
25 circumstances that may lead the mediator to make a particular
26 recommendation to the court; limitations on the confidentiality of the
27 process; and access to information communicated by the parties or
28 included in the mediation file;

29
30 (C) How to make best use of information drawn from current research
31 and professional experience to facilitate the mediation process,
32 parties' communication, and co-parenting relationship; and
33

34 (D) How to address each child's current and future developmental needs;
35

36 (3) Interviews with children at the mediator's discretion and consistent with
37 Family Code section 3180(a). The mediator may interview the child alone
38 or together with other interested parties, including stepparents, siblings,
39 new or step-siblings, or other family members significant to the child. If
40 interviewing a child, the mediator ~~shall~~must:

41
42 (A) Inform the child in an age-appropriate way of the mediator's
43 obligation to disclose suspected child abuse and neglect and the local

1 policies concerning disclosure of the child's statements to the court;
2 and

3
4 (B) With parental consent, coordinate interview and information
5 exchange among agency or private professionals to reduce the
6 number of interviews a child might experience;
7

8 (4) Assistance to the parties, without undue influence or personal bias, in
9 developing a parenting plan that protects the health, safety, welfare, and
10 best interest of the child and that optimizes the child's relationship with
11 each party by including, as appropriate, provisions for supervised
12 visitation in high-risk cases; designations for legal and physical custody; a
13 description of each party's authority to make decisions that affect the
14 child; language that minimizes legal, mental health, or other jargon; and a
15 detailed schedule of the time a child is to spend with each party, including
16 vacations, holidays, and special occasions, and times when the child's
17 contact with a party may be interrupted;
18

19 (5) Extension of time to allow the parties to gather additional information if
20 the mediator determines that such information will help the discussion
21 proceed in a fair and orderly manner or facilitate an agreement;
22

23 (6) Suspension or discontinuance of mediation if allegations of child abuse or
24 neglect are made until a designated agency performs an investigation and
25 reports a case determination to the mediator;
26

27 (7) Termination of mediation if the mediator believes that he or she is unable
28 to achieve a balanced discussion between the parties;
29

30 (8) Conclusion of mediation with:
31

32 (A) A written parenting plan ~~that summarizes~~ summarizing the parties'
33 agreement or mediator's recommendation that is given to counsel or
34 the parties before the recommendation is presented to the court; and
35

36 (B) A written or oral description of any subsequent case management or
37 court procedures for resolving one or more outstanding custody or
38 visitation issues, including instructions for obtaining temporary
39 orders; and
40

41 (9) Return to mediation to resolve future custody or visitation disputes.
42

43 (Subd (e) amended effective January 1, 2003.)

1
2 (f) **[Training, continuing education, and experience requirements for**
3 **mediator, mediation supervisor, and family court services director]** As
4 specified in Family Code sections 1815 and 1816:
5

6 (1) All mediators, mediation supervisors, and family court service program
7 directors must:
8

9 (A) Complete a minimum of 40 hours of custody and visitation
10 mediation training within the first six months of initial employment
11 as a court-connected mediator;
12

13 (B) Attend related continuing education programs, conferences, and
14 workshops; and
15

16 (C) Participate in performance supervision and peer review.
17

18 (2) Each family court services director and mediation supervisor ~~shall~~must
19 attend at least 32 hours of additional training each calendar year. This
20 requirement may be satisfied in part by the domestic violence training
21 required by Family Code section 1816.
22

23 *(Subd (f) amended effective January 1, 2003.)*
24

25 (g) **[Ethics]** Mediation ~~shall~~must be conducted in an atmosphere that encourages
26 trust in the process and a perception of fairness. To that end, mediators
27 ~~shall~~must:
28

29 (1) Meet the practice and ethical standards of the Code of Ethics for the
30 Court Employees of California and of related law;
31

32 (2) Maintain objectivity, provide and gather balanced information for both
33 parties, and control for bias;
34

35 (3) Protect the confidentiality of the parties and the child in making any
36 collateral contacts and not release information about the case to any
37 individual except as authorized by the court or statute;
38

39 (4) Not offer any recommendations about a party unless that party has been
40 evaluated directly or in consultation with another qualified neutral
41 professional;
42

- 1 (5) Consider the health, safety, welfare, and best interest of the child in all
2 phases of the process, including interviews with parents, extended family
3 members, counsel for the child, and other interested parties or collateral
4 contacts;
5
6 (6) Strive to maintain the confidential relationship between the child who is
7 the subject of an evaluation and his or her treating psychotherapist;
8
9 (7) Operate within the limits of his or her training and experience and
10 disclose any limitations or bias that would affect his or her ability to
11 conduct the mediation;
12
13 (8) Not require children to state a custodial preference;
14
15 (9) Not disclose any recommendations to the parties, their attorneys, or the
16 attorney for the child before having gathered the information necessary to
17 support the conclusion;
18
19 (10) Disclose to the court, parties, attorneys for the parties, and attorney for the
20 child conflicts of interest or dual relationships and not accept any
21 appointment except by court order or the parties' stipulation;
22
23 (11) Be sensitive to the parties' socioeconomic, gender, race, ethnicity, cultural
24 values, religious, family structures, and developmental characteristics; and
25
26 (12) Disclose any actual or potential conflicts of interest. In the event of a
27 conflict of interest, the mediator ~~shall~~must suspend mediation and meet
28 and confer in an effort to resolve the conflict of interest to the satisfaction
29 of all parties or according to local court rules. The court may order
30 mediation to continue with another mediator or offer the parties
31 alternatives. The mediator cannot continue unless the parties agree in
32 writing to continue mediation despite the disclosed conflict of interest.
33

34 *(Subd (g) amended effective January 1, 2003.)*
35

36 *Rule 1257.1 5.410 amended and renumbered effective January 1, 2003; adopted as rule 1257.1*
37 *effective July 1, 2001.*
38

39 **Rule ~~1257.25.415~~. Domestic violence protocol for Family Court Services**
40

- 41 (a) [Authority] This rule of court is adopted under article VI, section 6 of the
42 California Constitution and Family Code sections 211, 1850(a), and 3170(b).
43

1 (b) **[Purpose]** This rule sets forth the protocol for Family Court Services’
2 handling of domestic violence cases consistent with the requirement of Family
3 Code section 3170(b).
4

5 (c) **[Definitions]**
6

7 (1) “Domestic violence” is used as defined in Family Code sections 6203 and
8 6211.
9

10 (2) “Protective order” is used as defined in Family Code section 6215
11 “Emergency Protective Order”, Family Code section 6218 “Protective
12 Order”, and Penal Code section 136.2 (orders by court). “Domestic
13 violence restraining order” is synonymous with “protective order.”
14

15 (3) “Mediation” refers to proceedings described in Family Code section 3161.
16

17 (4) “Evaluation” and “investigation” are synonymous terms.
18

19 (5) “Family Court Services” refers to court-connected child custody services
20 and child custody mediation made available by superior courts ~~pursuant to~~
21 under Family Code section 3160.
22

23 (6) “Family Court Services staff” refers to contract and employee mediators,
24 evaluators, investigators, and counselors who provide services on behalf of
25 Family Court Services.
26

27 (7) “Differential domestic violence assessment” is a process used to assess the
28 nature of any domestic violence issues in the family so that Family Court
29 Services may provide services in such a way as to protect any victim of
30 domestic violence from intimidation, provide services for perpetrators, and
31 correct for power imbalances created by past and prospective violence.
32

33 (d) **[Family Court Services: Description and duties]**
34

35 (1) (*Local protocols*) Family Court Services must handle domestic violence
36 cases in accordance with pertinent state laws and all applicable rules of
37 court and must develop local protocols in accordance with this rule.
38

39 (2) (*Family Court Services duties relative to domestic violence cases*) Family
40 Court Services is a court-connected service that must:
41

1 (A) Identify cases in Family Court Services that involve domestic
2 violence, and code Family Court Services files to identify such cases;

3
4 (B) Make reasonable efforts to ensure the safety of victims, children, and
5 other parties when they are participating in services provided by
6 Family Court Services;

7
8 (C) Make appropriate referrals; and

9
10 (D) Conduct a differential domestic violence assessment in domestic
11 violence cases and offer appropriate services as available, such as
12 child custody evaluation, parent education, parent orientation,
13 supervised visitation, child custody mediation, relevant education
14 programs for children, and other services as determined by each
15 superior court.

16
17 (3) (*No negotiation of violence*) Family Court Services staff must not negotiate
18 with the parties about using violence with each other, whether either party
19 should or should not obtain or dismiss a restraining order, or whether
20 either party should cooperate with criminal prosecution.

21
22 (4) (*Domestic violence restraining orders*) Notwithstanding the above, to the
23 extent permitted under Family Code section 3183(c), in appropriate cases,
24 Family Court Services staff may recommend that restraining orders be
25 issued, pending determination of the controversy, to protect the well-being
26 of the child involved in the controversy.

27
28 (5) (*Providing information*) Family Court Services staff must provide
29 information to families accessing their services about the effects of
30 domestic violence on adults and children. Family Court Services programs,
31 including but not limited to orientation programs, must provide information
32 and materials that describe Family Court Services policy and procedures
33 with respect to domestic violence. Where possible, the videotapes
34 provided should be closed-captioned.

35
36 (6) (*Separate sessions*) In a Family Court Services case in which there has
37 been a history of domestic violence between the parties or in which a
38 protective order as defined in Family Code section 6218 is in effect, at the
39 request of the party who is alleging domestic violence in a written
40 declaration under penalty of perjury or who is protected by the order, the
41 Family Court Services mediator, counselor, evaluator, or investigator must
42 meet with the parties separately and at separate times. When appropriate,

1 arrangements for separate sessions must protect the confidentiality of each
2 party's times of arrival, departure, and meeting with Family Court
3 Services. Family Court Services must provide information to the parties
4 regarding their options for separate sessions ~~pursuant to~~ under Family
5 Code sections 3113 and 3181. If domestic violence is discovered after
6 mediation or evaluation has begun, the Family Court Services staff member
7 assigned to the case must confer with the parties separately regarding
8 safety-related issues and the option of continuing in separate sessions at
9 separate times. Family Court Services staff, including support staff, must
10 not respond to a party's request for separate sessions as though it were
11 evidence of his or her lack of cooperation with the Family Court Services
12 process.
13

14 (7) (*Referrals*) Family Court Services staff, where applicable, must refer
15 family members to appropriate services. Such services may include but are
16 not limited to programs for perpetrators, counseling and education for
17 children, parent education, services for victims, and legal resources, such
18 as family law facilitators.
19

20 (8) (*Community resources*) Family Court Services should maintain a liaison
21 with community-based services offering domestic violence prevention
22 assistance and support so that referrals can be made based on an
23 understanding of available services and service providers.
24

25 **(e) [Intake]**
26

27 (1) (*Court responsibility*) Each court must ensure that Family Court Services
28 programs use a detailed intake process that screens for, and informs staff
29 about, any restraining orders, dependency petitions under Welfare and
30 Institutions Code section 300, and other safety-related issues affecting any
31 party or child named in the proceedings.
32

33 (2) (*Intake form*) Any intake form that an agency charged with providing
34 family court services requires the parties to complete before the
35 commencement of mediation or evaluation must state that, if a party
36 alleging domestic violence in a written declaration under penalty of perjury
37 or a party protected by a protective order so requests, the Family Court
38 Services staff must meet with the parties separately and at separate times.
39

40 (3) (*Review of intake form and case file*) All Family Court Services
41 procedures must be conducted in accordance with state law and must

1 include review of intake forms and court files, when available, by
2 appropriate staff.

3
4 **(f) [Screening]**
5

6 (1) (*Identification of domestic violence*) Screening for a history of domestic
7 violence incidents must be done throughout the Family Court Services
8 process. As early in the case as possible, Family Court Services staff
9 should make every effort to identify cases in which incidents of domestic
10 violence are present. The means by which Family Court Services elicits
11 screening information may be determined by each program. Screening
12 techniques may include but are not limited to questionnaires, telephone
13 interviews, standardized screening devices, and face-to-face interviews.
14

15 (2) (*Procedures for identification*) Procedures for identifying domestic
16 violence may include, but are not limited to: (a) determination of an
17 existing emergency protective order or domestic violence restraining order
18 concerning the parties or minor; (b) review of court papers and
19 declarations; (c) telephone interviews; (d) use of an intake form; (e)
20 orientation; (f) information from attorneys, shelters, hospital reports, Child
21 Protective Services, police reports, and criminal background checks; and
22 (g) other collateral sources. Questions specific to incidents of domestic
23 violence should request the following information: date of the parties'
24 separation, frequency of domestic violence, most recent as well as past
25 incidents of domestic violence, concerns about future domestic violence,
26 identities of children and other individuals present at domestic violence
27 incidents or otherwise exposed to the domestic violence, and severity of
28 domestic violence.
29

30 (3) (*Context for screening*) In domestic violence cases in which neither party
31 has requested separate sessions at separate times, Family Court Services
32 staff must confer with the parties separately and privately to determine
33 whether joint or separate sessions are appropriate.
34

35 **(g) [Safety issues]**
36

37 (1) (*Developing a safety plan*) When domestic violence is identified or
38 alleged in a case, Family Court Services staff must consult with the party
39 alleging domestic violence away from the presence of the party against
40 whom such allegations are made, and discuss the existence of or need for a
41 safety plan. Safety planning may include but is not limited to discussion of
42 safe housing, workplace safety, safety for other family members and

1 children, access to financial resources, and information about local
2 domestic violence agencies.

3
4 (2) (*Safety procedures*) Each Family Court Services office should develop
5 safety procedures for handling domestic violence cases.

6
7 (3) (*Confidential addresses*) Where appropriate, Family Court Services staff
8 must make reasonable efforts to keep residential addresses, work
9 addresses, and contact information—including but not limited to telephone
10 numbers and e-mail addresses—confidential in all cases and on all Family
11 Court Services documents.

12
13 **(h) [Support persons]**

14
15 (1) (*Support person*) Family Court Services staff must advise the party
16 protected by a protective order of the right to have a support person attend
17 any mediation orientation or mediation sessions, including separate
18 mediation sessions, ~~pursuant to~~ under Family Code section 6303.

19
20 (2) (*Excluding support person*) A Family Court Services staff person may
21 exclude a domestic violence support person from a mediation session if the
22 support person participates in the mediation session or acts as an advocate
23 or the presence of a particular support person disrupts the process of
24 mediation. The presence of the support person does not waive the
25 confidentiality of the process, and the support person is bound by the
26 confidentiality of the process.

27
28 **(i) [Accessibility of services]** To effectively address domestic violence cases, the
29 court must make reasonable efforts to ensure the availability of safe and
30 accessible services that include, but are not limited to:

31
32 (1) (*Language accessibility*) Whenever possible, Family Court Services
33 programs should be conducted in the languages of all participants,
34 including those who are deaf. When the participants use only a language
35 other than spoken English and the Family Court Services staff person does
36 not speak their language, an interpreter—certified whenever possible—
37 should be assigned to interpret at the session. A minor child of the parties
38 must not be used as an interpreter. An adult family member may act as an
39 interpreter only when appropriate interpreters are not available. When a
40 family member is acting as an interpreter, Family Court Services staff
41 should attempt to establish, away from the presence of the potential
42 interpreter and the other party, whether the person alleging domestic

1 violence is comfortable with having that family member interpret for the
2 parties.

- 3
4 (2) *(Facilities design)* To minimize contact between the parties and promote
5 safety in domestic violence cases, courts must give consideration to the
6 design of facilities. Such considerations must include but are not limited to
7 the following: separate and secure waiting areas, separate conference
8 rooms for parent education and mediation, signs providing directions to
9 Family Court Services, and secure parking for users of Family Court
10 Services.

11
12 **(j) [Training and education]**

- 13
14 (1) *(Training, continuing education, and experience requirements for Family*
15 *Court Services staff)* All Family Court Services staff must participate in
16 programs of continuing instruction in issues related to domestic violence,
17 including child abuse, as may be arranged for and provided to them,
18 ~~pursuant to~~ under Family Code section 1816(a).
19
20 (2) *(Advanced domestic violence training)* Family Court Services staff must
21 complete 16 hours of advanced domestic violence training within the first
22 12 months of employment and 4 hours of domestic violence update
23 training each year thereafter. The content of the 16 hours of advanced
24 domestic violence training and 4 hours of domestic violence update
25 training must be the same as that required for court-appointed child
26 custody investigators and evaluators as stated in rule 1257.7. Those staff
27 members employed by Family Court Services on January 1, 2002, who
28 have not already fulfilled the requirements of rule 1257.7 must participate
29 in the 16- hour training within one year of the rule's effective date.
30
31 (3) *((Support staff)* Family Court Services programs should, where possible,
32 enable support staff, including but not limited to clerical staff, to
33 participate in training on domestic violence and in handling domestic
34 violence cases appropriately.
35

36 *Rule ~~1257.255.415~~ amended and renumbered January 1, 2003; adopted as rule 1257.25 effective*
37 *January 1, 2002.*

38
39 ***Rule ~~1257.35.420~~. Uniform standards of practice for cCourt-ordered child custody***
40 ***evaluations***

- 41
42 **(a) [Authority]** This rule of court is adopted under article VI, section 6 of the
43 California Constitution and Family Code sections 211 and 3117.

1
2 (b) **[Purpose]** Courts order child custody evaluations, investigations, and
3 assessments to assist them in determining the health, safety, welfare, and best
4 interest of children with regard to disputed custody and visitation issues. This
5 rule ~~affects~~ governs both court-connected and private child custody evaluators
6 appointed under Family Code section 3111, Evidence Code section 730, or
7 Code of Civil Procedure section 2032.

8
9 (c) **[Definitions]** For purposes of this rule:

10
11 (1) A “child custody evaluator” is a court-appointed investigator as defined in
12 Family Code section 3110.

13
14 (2) The “best interest of the child” is as defined in Family Code section 3011.

15
16 (3) A “child custody evaluation” is an expert investigation and analysis of the
17 health, safety, welfare, and best interest of children with regard to
18 disputed custody and visitation issues.

19
20 (4) A “full evaluation, investigation, or assessment” is a comprehensive
21 examination of the health, safety, welfare, and best interest of the child.

22
23 (5) A “partial evaluation, investigation, or assessment” is an examination of
24 the health, safety, welfare, and best interest of the child that is limited by
25 court order in either time or scope.

26
27 (6) “Evaluation,” “investigation,” and “assessment” are synonymous ~~terms~~.

28
29 (d) **[Responsibility for evaluation services]**

30
31 (1) Each court ~~shall~~ must:

32
33 (A) Adopt local rules within one year of this rule’s effective date to:

34
35 (i) Implement this rule of court;

36
37 (ii) Determine whether a peremptory challenge to a court-appointed
38 evaluator is allowed and when the challenge must be exercised.
39 The rules ~~shall~~ must specify whether a family court services
40 staff member, other county employee, a mental health
41 professional, or all of them may be challenged;
42

- 1 (iii) Allow evaluators to petition the court to withdraw from a case;
2
3 (iv) Provide for acceptance of and response to complaints about an
4 evaluator's performance; and
5
6 (v) Address ex parte communications.
7
8 (B) Give the evaluator, before the evaluation begins, a copy of the court
9 order that specifies:
10
11 (i) The appointment of the evaluator under Evidence Code section
12 730, Family Code section 3110, or Code of Civil Procedure
13 2032; and
14
15 (ii) The purpose and scope of the evaluation.
16
17 (C) Require child custody evaluators to adhere to the requirements of
18 this rule.
19
20 (D) Determine and allocate between the parties any fees or costs of the
21 evaluation.
22

23 (2) The child custody evaluator ~~shall~~must:
24

- 25 (A) Consider the health, safety, welfare, and best interest of the child
26 within the scope and purpose of the evaluation as defined by the
27 court order;
28
29 (B) Strive to minimize the potential for psychological trauma to children
30 during the evaluation process; and
31
32 (C) Include in the initial meeting with each child an age-appropriate
33 explanation of the evaluation process, including limitations on the
34 confidentiality of the process.
35

36 *(Subd (d) amended effective January 1, 2003.)*
37

38 (e) **[Scope of evaluations]** All evaluations ~~shall~~must include:
39

- 40 (1) A written explanation of the process that clearly describes the:
41
42 (A) Purpose of the evaluation;
43

1 (B) Procedures used and the time required to gather and assess
2 information and, if psychological tests will be used, the role of the
3 results in confirming or questioning other information or previous
4 conclusions;

5
6 (C) Scope and distribution of the evaluation report;

7
8 (D) Limitations on the confidentiality of the process; and

9
10 (E) Cost and payment responsibility for the evaluation.

11
12 (2) Data collection and analysis that allow the evaluator to observe and
13 consider each party in comparable ways and to substantiate (from
14 multiple sources when possible) interpretations and conclusions regarding
15 each child's developmental needs; the quality of attachment to each
16 parent and that parent's social environment; and reactions to the
17 separation, divorce, or parental conflict. This process may include but is
18 not limited to:

19
20 (A) Reviewing pertinent documents related to custody, including local
21 police records;

22
23 (B) Observing parent-child interaction (unless contraindicated to protect
24 the best interest of the child);

25
26 (C) Interviewing parents conjointly, individually, or both conjointly and
27 individually (unless contraindicated in cases involving domestic
28 violence), to assess:

29
30 (i) Capacity for setting age-appropriate limits and for
31 understanding and responding to the child's needs;

32
33 (ii) History of involvement in caring for the child;

34
35 (iii) Methods for working toward resolution of the child custody
36 conflict;

37
38 (iv) History of child abuse, domestic violence, substance abuse, and
39 psychiatric illness; and

40
41 (v) Psychological and social functioning;

1 (D) Conducting age-appropriate interviews and observation with the
2 children, both parents, stepparents, step- and half-siblings conjointly,
3 separately, or both conjointly and separately, unless contraindicated
4 to protect the best interest of the child;

5
6 (E) Collecting relevant corroborating information or documents as
7 permitted by law; and
8

9 (F) Consulting with other experts to develop information that is beyond
10 the evaluator's scope of practice or area of expertise.
11

12 (3) A written or oral presentation of findings that is consistent with Family
13 Code section 3111 or Evidence Code section 730. In any presentation of
14 findings, the evaluator ~~shall~~must:

15
16 (A) Summarize the data-gathering procedures, information sources, and
17 time spent, and present all relevant information, including
18 information that does not support the conclusions reached;
19

20 (B) Describe any limitations in the evaluation that result from
21 unobtainable information, failure of a party to cooperate, or the
22 circumstances of particular interviews;
23

24 (C) Only make a custody or visitation recommendation for a party who
25 has been evaluated. This requirement does not preclude the evaluator
26 from making an interim recommendation that is in the best interest
27 of the child; and
28

29 (D) Provide clear, detailed recommendations that are consistent with the
30 health, safety, welfare, and best interest of the child if making any
31 recommendations to the court regarding a parenting plan.
32

33 *(Subd (e) amended effective January 1, 2003.)*
34

35 (f) **[Cooperation with professionals in another jurisdiction]** When one party
36 resides in another jurisdiction, the custody evaluator may rely on another
37 qualified neutral professional for assistance in gathering information. In order
38 to ensure a thorough and comparably reliable out-of-jurisdiction evaluation, the
39 evaluator ~~shall~~must:

40
41 (1) Make a written request that includes, as appropriate:
42

43 (A) A copy of all relevant court orders;

- 1
- 2 (B) An outline of issues to be explored;
- 3
- 4 (C) A list of the individuals who ~~shall~~must or may be contacted;
- 5
- 6 (D) A description of the necessary structure and setting for interviews;
- 7
- 8 (E) A statement as to whether a home visit is required;
- 9
- 10 (F) A request for relevant documents such as police records, school
- 11 reports, or other document review; and
- 12
- 13 (G) A request that a written report be returned only to the evaluator and
- 14 that no copies of the report be distributed to parties or attorneys;
- 15
- 16 (2) Provide instructions that limit the out-of-jurisdiction report to factual
- 17 matters and behavioral observations rather than recommendations
- 18 regarding the overall custody plan; and
- 19
- 20 (3) Attach and discuss the report provided by the professional in another
- 21 jurisdiction in the evaluator's final report.
- 22

23 *(Subd (f) amended effective January 1, 2003.)*

24

- 25 (g) **[Requirements for evaluator qualifications, training, continuing education,**
- 26 **and experience]** All child custody evaluators ~~shall~~must meet the qualifications,
- 27 training, and continuing education requirements specified in Family Code
- 28 sections 1815, 1816, and 3111, and rule ~~4257.75.430~~.
- 29

30 *(Subd (g) amended effective January 1, 2003; previously amended effective July 1, 1999.)*

31

- 32 (h) **[Ethics]** In performing an evaluation, the child custody evaluator ~~shall~~must:
- 33
- 34 (1) Maintain objectivity, provide and gather balanced information for both
- 35 parties, and control for bias;
- 36
- 37 (2) Protect the confidentiality of the parties and children in collateral contacts
- 38 and not release information about the case to any individual except as
- 39 authorized by the court or statute;
- 40
- 41 (3) Not offer any recommendations about a party unless that party has been
- 42 evaluated directly or in consultation with another qualified neutral
- 43 professional;

- (4) Consider the health, safety, welfare, and best interest of the child in all phases of the process, including interviews with parents, extended family members, counsel for the child, and other interested parties or collateral contacts;
- (5) Strive to maintain the confidential relationship between the child who is the subject of an evaluation and his or her treating psychotherapist;
- (6) Operate within the limits of the evaluator's training and experience and disclose any limitations or bias that would affect the evaluator's ability to conduct the evaluation;
- (7) Not pressure children to state a custodial preference;
- (8) Inform the parties of the evaluator's reporting requirements, including, but not limited to, suspected child abuse and neglect and threats to harm one's self or another person;
- (9) Not disclose any recommendations to the parties, their attorneys, or the attorney for the child before having gathered the information necessary to support the conclusion;
- (10) Disclose to the court, parties, attorney for a party, and attorney for the child conflicts of interest or dual relationships; and not accept any appointment except by court order or the parties' stipulation; and
- (11) Be sensitive to the socioeconomic, gender, race, ethnicity, cultural values, religious, family structures, and developmental characteristics of the parties.

(Subd (h) amended effective January 1, 2003.)

(i) **[Cost-effective procedures for cross-examination of evaluators]** Each local court ~~shall~~must develop procedures for expeditious and cost-effective cross-examination of evaluators, including, but not limited to, consideration of the following:

- (1) Videoconferences;
- (2) Telephone conferences;
- (3) Audio or video examination; and

1
2 (4) Scheduling of appearances.
3

4 *(Subd (i) amended effective January 1, 2003.)*
5

6 *Rule 1257.35.420 amended effective January 1, 2003; adopted as rule 1257.3 effective January*
7 *1, 1999; previously amended effective July 1, 1999.*
8

9 **Rule ~~1257.75.430~~. Domestic violence training standards for court-appointed child**
10 **custody investigators and evaluators**
11

12 (a) **[Authority]** This rule of court is adopted under article VI, section 6 of the
13 California Constitution and Family Code sections 211 and 3111(d) and (e).
14

15 (b) **[Purpose]** Consistent with Family Code sections 3020 and 3111, the purposes
16 of this rule are to require domestic violence training for all court-appointed
17 persons who evaluate or investigate child custody matters and to ensure that
18 this training reflects current research and consensus about best practices for
19 conducting child custody evaluations by prescribing standards that training in
20 domestic violence ~~shall~~must meet. Effective January 1, 1998, no person
21 ~~shall~~may be a court-appointed investigator under Family Code section 3111(d)
22 or Evidence Code section 730 unless the person has completed domestic
23 violence training described here and in Family Code section 1816.
24

25 *(Subd (b) amended effective January 1, 2003.)*
26

27 (c) **[Definitions]** For purposes of this rule, “court-appointed investigator” is
28 considered to be synonymous with “court-appointed evaluator” as defined in
29 Family Code section 3110.
30

31 (d) **[Mandatory training]** Persons appointed as child custody investigators under
32 Family Code section 3110 or Evidence Code section 730, and persons who are
33 professional staff or trainees in a child custody or visitation evaluation or
34 investigation, must complete basic training in domestic violence issues as
35 described in Family Code section 1816 and in addition:
36

37 (1) *(Advanced training)* Sixteen hours of advanced training ~~shall~~must be
38 completed within a 12-month period. These 16 hours ~~shall~~must ~~consist~~
39 ~~of~~include:
40

41 (A) Twelve hours of in-person classroom instruction in:
42

- 1 (i) The appropriate structuring of the child custody evaluation
2 process, including, but not limited to, maximizing safety for
3 clients, evaluators, and court personnel; maintaining objectivity;
4 providing and gathering balanced information from both parties
5 and controlling for bias; providing for separate sessions at
6 separate times (as specified in Family Code section 3113); and
7 considering the impact of the evaluation report and
8 recommendations with particular attention to the dynamics of
9 domestic violence;
10
11 (ii) The relevant sections of local, state, and federal law or rules;
12
13 (iii) The range, availability, and applicability of domestic violence
14 resources available to victims, including, but not limited to,
15 battered women's shelters, specialized counseling, drug and
16 alcohol counseling, legal advocacy, job training, parenting
17 classes, battered immigrant victims, and welfare exceptions for
18 domestic violence victims;
19
20 (iv) The range, availability, and applicability of domestic violence
21 intervention available to perpetrators, including, but not limited
22 to, arrest, incarceration, probation, applicable Penal Code
23 sections (including Penal Code section 1203.097, which
24 describes certified treatment programs for batterers), drug and
25 alcohol counseling, legal advocacy, job training, and parenting
26 classes; and
27
28 (v) The unique issues in family and psychological assessment in
29 domestic violence cases, including the following concepts:
30
31 a. The effects of exposure to domestic violence and
32 psychological trauma on children; the relationship
33 between child physical abuse, child sexual abuse, and
34 domestic violence; the differential family dynamics related
35 to parent-child attachments in families with domestic
36 violence; intergenerational transmission of familial
37 violence; and manifestations of post-traumatic stress
38 disorders in children;
39
40 b. The nature and extent of domestic violence, and the
41 relationship of gender, class, race, culture, and sexual
42 orientation to domestic violence;

- c. Current legal, psychosocial, public policy, and mental health research related to the dynamics of family violence, the impact of victimization, the psychology of perpetration, and the dynamics of power and control in battering relationships;
- d. The assessment of family history based on the type, severity, and frequency of violence;
- e. The impact on parenting abilities of being a victim or perpetrator of domestic violence;
- f. The uses and limitations of psychological testing and psychiatric diagnosis in assessing parenting abilities in domestic violence cases;
- g. The influence of alcohol and drug use and abuse on the incidence of domestic violence;
- h. Understanding the dynamics of high-conflict relationships and abuser/victim relationships;
- i. The importance of, and procedures for, obtaining collateral information from probation departments, children's protective services, police incident reports, restraining order pleadings, medical records, schools, and other relevant sources; and
- j. Accepted methods for structuring safe and enforceable child custody and parenting plans that assure the health, safety, welfare, and best interest of the child, and safeguards for the parties.

(B) Four hours of community resource networking intended to acquaint the evaluator with domestic violence resources in the geographical communities where the families being evaluated may reside.

(2) *(Annual update training)* Four hours of update training are required each year after the year in which the advanced training is completed. These four hours ~~will consist of~~ must consist of in-person classroom instruction focused on, but not limited to, an update of changes or modifications in

1 local court practices, case law, and state and federal legislation related to
2 domestic violence, and an update of current social science research and
3 theory, particularly in regard to the impact on children of exposure to
4 domestic violence.

5
6 *(Subd (d) amended effective January 1, 2003.)*
7

8 (e) **[Domestic violence training providers]** Eligible providers may include
9 educational institutions, professional associations, professional continuing
10 education groups, public or private for-profit or not-for-profit groups, and
11 court-connected groups.

12
13 (f) **[Certificate of course completion]** Domestic violence training providers
14 ~~shall~~must distribute a certificate of completion to each person who has
15 attended the initial 12-hour in-person classroom instruction and to each person
16 who has attended the annual 4-hour update training in domestic violence for
17 child custody evaluators. The certificate of completion ~~will document~~serve
18 must document (or state) the number of hours of training offered, the number
19 of hours the person attended, the date(s) of the training, and the name of the
20 training provider.

21
22 *(Subd (f) amended effective January 1, 2003.)*
23

24 (g) **[Local court rules]** ~~Within a year of the Judicial Council's adoption of this~~
25 ~~statewide rule of court, Each~~ local court may adopt rules regarding the
26 procedures by which child custody evaluators that ~~may~~ have completed the
27 training in domestic violence as mandated by this rule will notify the local
28 court. In the absence of such a local rule of court, child custody evaluators
29 ~~shall~~must attach copies of their certificates of completion of the initial 12 hours
30 of advanced in-person classroom instruction and of the most recent annual 4-
31 hour update training in domestic violence to each child custody evaluation
32 report.

33
34 *(Subd (g) amended effective January 1, 2003.)*
35

36 (h) **[Previous training accepted]** Persons attending training programs offered after
37 January 1, 1996, that meet all of the requirements set forth in subdivision
38 (d)(1)(A) of this rule, are deemed to have met the minimum standards set forth
39 in subdivision (d)(1)(A) of this rule, but they must still meet the minimum
40 standards listed in subdivisions (d)(1)(B) and (d)(2) of this rule.

41
42 *Rule ~~1257.75.430~~ amended and renumbered effective January 1, 2003; adopted as rule 1257.7*
43 *effective January 1, 1999.*

1
2 **CHAPTER 2.7. ~~Computer Software Standards~~ 5.0. Child and Spousal Support**

3 Title 4-Five, Special Rules for Trial Courts—Division I~~a~~, Family Law Rules—Chapter 2.75.0,
4 ~~Computer Software Standards~~ Child and Spousal Support; A~~a~~ adopted effective December 1, 1993.

5 **Rule 12585.520. Standards for computer software to assist in determining support**

6
7 (a) **[Authority]** This rule is adopted ~~pursuant to~~ under Family Code section 3830
8 and article VI, section 6 of the California Constitution.

9
10 (b) **[Standards]** The standards for computer software to assist in determining the
11 appropriate amount of child or spousal support are:

12
13 (1) The software ~~shall~~ must accurately compute the net disposable income of
14 each parent as follows:

15
16 (A) Permit entry of the “gross income” of each parent as defined by
17 Family Code section 4058;

18
19 (B) Either accurately compute the state and federal income tax
20 liability under Family Code section 4059(a) or permit the entry
21 of a figure for this amount; this figure, in the default state of the
22 program, ~~shall~~ must not include the tax consequences of any
23 spousal support to be ordered;

24
25 (C) Ensure that any deduction for contributions to the Federal
26 Insurance Contributions Act or as otherwise permitted by
27 Family Code section 4059(b) does not exceed the allowable
28 amount;

29
30 (D) Permit the entry of deductions authorized by Family Code
31 sections 4059(c) through (f); and

32
33 (E) Permit the entry of deductions authorized by Family Code
34 section 4059(g) [Hardship] while ensuring that any deduction
35 subject to the limitation in Family Code section 4071(b) does
36 not exceed that limitation.

37
38 (2) Using examples provided by the Judicial Council, the software ~~shall~~ must
39 calculate a child support amount, using its default settings, that is accurate
40 to within 1 percent of the correct amount. In making this determination,

1 the Judicial Council ~~shall~~must calculate the correct amount of support for
2 each example and ~~shall~~must then calculate the amount for each example
3 using the software program. Each person seeking certification of software
4 ~~shall~~must supply a copy of the software to the Judicial Council. If the
5 software does not operate on a standard ~~MS/DOS~~Windows 95 or later
6 compatible or Macintosh computer, the person seeking certification of the
7 software ~~shall~~must make available to the Judicial Council any hardware
8 required to use the software. The Judicial Council may delegate the
9 responsibility for the calculation and determinations required by this rule.

10
11 (3) The software ~~shall~~must contain, either on the screen or in written form, a
12 glossary defining each term used on the computer screen or in printed
13 hard copy produced by the software.

14
15 (4) The software ~~shall~~must contain, either on the screen or in written form,
16 instructions for the entry of each figure that is required for computation of
17 child support using the default setting of the software. These instructions
18 ~~shall~~must include but not be limited to the following:

19
20 (A) The gross income of each party as provided for by Family Code
21 section 4058;

22
23 (B) The deductions from gross income of each party as provided for
24 by Family Code section 4059 and subdivision (b)(1) of this
25 rule;

26
27 (C) The additional items of child support provided for in Family
28 Code section 4062; and

29
30 (D) The following factors rebutting the presumptive guideline
31 amount: Family Code section 4057(b)(2) [Deferred sale of
32 residence] and 4057(b)(3) [Income of subsequent partner].

33
34 (5) In making an allocation of the additional items of child support under
35 subdivision (b)(4)(iii)~~C~~ of this rule, the software ~~shall~~must, as its default
36 setting, allocate the expenses one-half to each parent. The software
37 ~~shall~~must also provide, in an easily selected option, the alternative
38 allocation of the expenses as provided for by Family Code section
39 4061(b).

40
41 (6) The software or a license to use the software ~~shall~~must be available to
42 persons without restriction based on profession or occupation.

1
2 (7) The sale or donation of software or a license to use the software to a court
3 or a judicial officer ~~shall~~must include a license, without additional charge,
4 to the court or judicial officer to permit an additional copy of the software
5 to be installed on a computer to be made available by the court or judicial
6 officer to members of the public.

7
8 *(Subd (b) amended effective January 1, 2003.)*
9

10 (c) **[Expiration of certification]** ~~Except as provided in subdivision (j),~~ Any
11 certification provided by the Judicial Council ~~pursuant to~~ under Family Code
12 section 3830 and this rule ~~shall~~must expire one year from the date of its
13 issuance unless another expiration date is set forth in the certification. The
14 Judicial Council may provide for earlier expiration of a certification if (1) the
15 provisions involving the calculation of tax consequences change or (2) other
16 provisions involving the calculation of support change.
17

18 *(Subd (c) amended effective January 1, 2003.)*
19

20 (d) **[Statement of certified public accountant]** If the software computes the state
21 and federal income tax liability as provided in subdivision (b)(1)(~~HB~~) of this
22 rule, the application for certification, whether for original certification or for
23 renewal, ~~shall~~must be accompanied by a statement from a certified public
24 accountant that
25

26 (1) ~~¶~~The accountant is familiar with the operation of the software;
27

28 (2) ~~¶~~The accountant has carefully examined, in a variety of situations, the
29 operation of the software in regard to the computation of tax liability;
30

31 (3) ~~¶~~In the opinion of the accountant the software accurately calculates the
32 estimated actual state and federal income tax liability consistent with
33 Internal Revenue Service and Franchise Tax Board procedures; ~~and~~
34

35 (4) ~~¶~~In the opinion of the accountant the software accurately calculates the
36 deductions ~~pursuant to~~ under the Federal Insurance Contributions Act
37 (FICA), including the amount for social security and for Medicare, and
38 the deductions for California State Disability Insurance and properly
39 annualizes these amounts; and
40

41 (5) ~~The statement shall~~ sStates which calendar year the statement includes
42 and ~~shall~~must clearly indicates any limitations on the statement. The

Judicial Council may request a new statement as often as it determines necessary to ensure accuracy of the tax computation.

(Subd (d) amended effective January 1, 2003.)

- (e) **[Renewal of certification]** At least three months prior to the expiration of a certification, a person may apply for renewal of the certification. The renewal ~~shall~~must include a statement of any changes made to the software since the last application for certification. Upon request, the Judicial Council will keep the information concerning changes confidential.

(Subd (e) amended effective January 1, 2003.)

- (f) **[Modifications to the software]** The certification issued by the Judicial Council ~~pursuant to~~ under Family Code section 3830 and this rule imposes a duty upon the person applying for the certification to promptly notify the Judicial Council of all changes made to the software during the period of certification. Upon request, the Judicial Council will keep the information concerning changes confidential. The Judicial Council may, after receipt of information concerning changes, require that the software be recertified ~~pursuant to~~ under this rule.

- (g) **[Definitions]** As used in this rule:

- (1) “Default settings” refers to the status in which the software first starts when it is installed on a computer system. The software may permit the default settings to be changed by the user, either on a temporary or a permanent basis, if (i) the user is permitted to change the settings back to the default without reinstalling the software, (ii) the computer screen prominently indicates whether the software is set to the default settings, and (iii) any printout from the software prominently indicates whether the software is set to the default settings.
- (2) “Contains” means, with reference to software, that the material is either displayed by the program code itself or is found in written documents supplied with the software.

- (h) **[Explanation of discrepancies]** Before the Judicial Council denies a certificate because of failure to comply with the standards in paragraph (b)(1) or (b)(2) of this rule, the Judicial Council may request the person seeking certification to explain the differences in results.

(i) **[Application]** An application for certification ~~shall~~must be on a form supplied by the Judicial Council and ~~shall~~must be accompanied by an application fee of \$250.

(Subd (i) amended effective January 1, 2003.)

~~(j) **[Initial certification]** The initial certification of software under this rule may be made notwithstanding that:~~

~~(1) The software does not use all the default settings required by this rule but does permit each required setting to be selected as an option;~~

~~(2) The requirements of paragraphs (b)(3), (4), (6), and (7) are not met; and~~

~~(3) The tax year for which the statement of the certified public accountant is submitted is for 1993.~~

~~In the event the software is initially certified under this paragraph, the initial certification shall expire on April 30, 1994.~~

(k) **[Acceptability in the courts]** All courts must permit parties or attorneys to use any software certified by the Judicial Council under this rule.

(Subd (j) relettered effective January 1, 2003; adopted as subd (k) effective January 1, 2000.)

Rule 42585.520 amended and renumbered effective January 1, 2003; adopted as rule 1258 effective December 1, 1993; previously amended effective January 1, 2000.

CHAPTER 3. Transitional Rules

~~Title 4, Special Rules for Trial Courts—Division Ib, Family Law Rules—Chapter 3, Transitional Rules; adopted effective January 1, 1970.~~

~~Chapter 3, consisting of rules 1260–1268, repealed effective January 1, 1994.~~

~~**Rule 1260. [Repealed 1994]**~~

~~**Rule 1261. [Repealed 1994]**~~

~~**Rule 1262. [Repealed 1994]**~~

~~**Rule 1263. [Repealed 1994]**~~

~~**Rule 1264. [Repealed 1994]**~~

~~**Rule 1265. [Repealed 1994]**~~

~~**Rule 1266. [Repealed 1994]**~~

1 **~~Rule 1267. [Repealed 1994]~~**

2 **~~Rule 1268. [Repealed 1994]~~**

4 **~~Rule 1260. [Repealed 1994]~~**

6 *Rule 1260 adopted effective January 1, 1970; repealed effective January 1, 1994. The repealed
7 rule related to applicability of chapter.*

9 **~~Rule 1261. [Repealed 1994]~~**

11 *Rule 1261 adopted effective January 1, 1970; repealed effective January 1, 1994. The repealed
12 rule related to designation of parties, grounds.*

14 **~~Rule 1262. [Repealed 1994]~~**

16 *Rule 1262 adopted effective January 1, 1970; repealed effective January 1, 1994. The repealed
17 rule related to proceeding by default.*

19 **~~Rule 1263. [Repealed 1994]~~**

21 *Rule 1263 adopted effective January 1, 1970; repealed effective January 1, 1994. The repealed
22 rule related to filing timely response.*

24 **~~Rule 1264. [Repealed 1994]~~**

26 *Rule 1264 adopted effective January 1, 1970; repealed effective January 1, 1994. The repealed
27 rule related to pending motions.*

29 **~~Rule 1265. [Repealed 1994]~~**

31 *Rule 1265 adopted effective January 1, 1970; repealed effective January 1, 1994. The repealed
32 rule related to former pleadings.*

34 **~~Rule 1266. [Repealed 1994]~~**

36 *Rule 1266 adopted effective January 1, 1970; repealed effective January 1, 1994. The repealed
37 rule related to time to file response.*

39 **~~Rule 1267. [Repealed 1994]~~**

41 *Rule 1267 adopted effective January 1, 1970; repealed effective January 1, 1994. The repealed
42 rule related to response.*

44 **~~Rule 1268. [Repealed 1994]~~**

Rule 1268 adopted effective January 1, 1970; repealed effective January 1, 1994. The repealed rule related to liberal construction.

CHAPTER 3.25. Bifurcation and Appeals

~~Chapter 3.25 adopted effective July 1, 1989.~~

~~**Rule 1269. Bifurcation of issues**~~

~~**Rule 1269.5. Interlocutory appeals**~~

~~**Rule 1269. Bifurcation of issues**~~

~~(a) [Bifurcation of issues] On noticed motion of a party, the stipulation of the parties, or its own motion, the court may bifurcate one or more issues to be tried separately before other issues are tried. The motion shall be heard not later than the trial setting conference.~~

~~The clerk shall mail copies of the order deciding the bifurcated issue and any statement of decision under rule 232.5 to the parties within 10 days of their filing and file a certificate of mailing.~~

~~(Subd (a) amended effective January 1, 1994.)~~

~~(b) [When to bifurcate] The court may try separately one or more issues before trial of the other issues if resolution of the bifurcated issue is likely to simplify the determination of the other issues. Issues that may, in some cases, be appropriate to try separately in advance include:~~

~~(1) Validity of a postnuptial or premarital agreement;~~

~~(2) Date of separation;~~

~~(3) Date to use for valuation of assets;~~

~~(4) Whether property is separate or community;~~

~~(5) How to apportion increase in value of a business;~~

~~(6) Existence or value of business or professional goodwill.~~

~~Rule 1269 effective July 1, 1989; previously amended effective January 1, 1994..~~

1
2 **Former Rule**

3 Former rule 1269, relating to transitional use of responsive forms, was adopted effective January
4 1, 1980, and repealed effective July 1, 1989.

5 **Rule 1269.5. Interlocutory appeals**

6
7 (a) ~~[Applicability]~~ This rule does not apply to appeals from the court's
8 termination of marital status as a separate issue, nor to appeals from other
9 orders that are separately appealable.

10
11 *(Subd (a) amended effective January 1, 1994.)*
12

13 (b) ~~[Certificate of probable cause for appeal]~~ The order deciding the bifurcated
14 issue may, at the judge's discretion, include an order certifying there is
15 probable cause for immediate appellate review of the issue. If it was not in the
16 order, within 10 days after the clerk mails the order deciding the bifurcated
17 issue a party may notice a motion requesting the court to certify there is
18 probable cause for immediate appellate review of the order. The motion must
19 be heard within 30 days after the order deciding the bifurcated issue is mailed.

20
21 The clerk must promptly mail notice of the decision on the motion to the
22 parties. If the motion is not determined within 40 days after mailing of the
23 order on the bifurcated issue, it is deemed granted on the grounds stated in the
24 motion.

25
26 *(Subd (b) amended effective January 1, 2002.)*
27

28 (c) ~~[Content and effect of certificate]~~ A certificate of probable cause must state,
29 in general terms, the reason immediate appellate review is desirable, such as a
30 statement that final resolution of the issue (1) is likely to lead to settlement of
31 the entire case; (2) will simplify remaining issues; (3) will conserve the courts'
32 resources; (4) will benefit the well being of a child of the marriage or the
33 parties.

34
35 If a certificate is granted, trial of the remaining issues may be stayed. If trial of
36 the remaining issues is stayed, unless otherwise ordered by the trial court on
37 noticed motion, further discovery must be stayed while the certification is
38 pending. These stays terminate upon the expiration of time for filing a motion
39 to appeal if none is filed, or upon the Court of Appeal denying all motions to
40 appeal, or upon the Court of Appeal decision becoming final.

41
42 *(Subd (c) amended effective January 1, 2002.)*

1
2 ~~(d) [Motion to appeal]~~ If the certificate is granted, a party may within 15 days
3 after the mailing of the notice of the order granting it serve and file in the Court
4 of Appeal a motion to appeal the decision on the bifurcated issue. On ex parte
5 application served and filed within 15 days, the Court of Appeal or the trial
6 court may extend the time for filing the motion to appeal by not more than an
7 additional 20 days. The motion must contain a brief statement of the facts
8 necessary to an understanding of the issue; a statement of the issue; and a
9 statement of why, in the context of the case, an immediate appeal is desirable.
10 The motion must include or have annexed a copy of the decision of the trial
11 court on the bifurcated issue; any statement of decision; the certification of the
12 appeal; and a sufficient partial record to enable the Court of Appeal to
13 determine whether to grant the motion. A summary of evidence and oral
14 proceedings, if relevant, supported by a declaration of counsel may be used
15 when a transcript is not available. The motion must be accompanied by the
16 filing fee for an appeal under rule 1(c) and Government Code sections 68926
17 and 68926.1. A copy of the motion must be served on the trial court.
18

19 *(Subd (d) amended effective January 1, 2002.)*
20

21 ~~(e) [Proceedings to determine motion]~~ Within 10 days after service of the
22 motion, an adverse party may serve and file an opposition to it. The motion to
23 appeal and any opposition will be submitted without oral argument, unless
24 otherwise ordered.
25

26 *(Subd (e) amended effective January 1, 2002.)*
27

28 The motion to appeal is deemed granted unless it is denied within 30 days from
29 the date of filing the opposition or the last document requested by the court,
30 whichever is later. Denial of a motion to appeal is final forthwith and is not
31 subject to rehearing. A party aggrieved by the denial of the motion may petition
32 for review by the Supreme Court.
33

34 ~~(f) [Proceedings if motion to appeal is granted]~~ If the motion to appeal is
35 granted, the moving party is deemed an appellant, and the rules governing
36 other civil appeals apply except as provided in this rule. The partial record
37 filed with the motion will be considered the record for the appeal unless,
38 within 10 days from the date notice of the grant of the motion is mailed, a party
39 notifies the Court of Appeal of additional portions of the record that are needed
40 for a full consideration of the appeal. If a party notifies the court of the need
41 for an additional record, the additional material must be secured from the trial
42 court by augmentation under rule 12, unless it appears to the Court of Appeal
43 that some of the material is not needed.

1
2 Briefs must be filed pursuant to a schedule set for the matter by the Court of
3 Appeal.

4
5 *(Subd (f) amended effective January 1, 2002.)*
6

7 (i) ~~[Review by writ or appeal]~~ The trial court's denial of a certification motion
8 under (b) does not preclude review of the decision on the bifurcated issue by
9 extraordinary writ.

10
11 (j) ~~[Review by appeal]~~ None of the following precludes review of the decision on
12 the bifurcated issue upon appeal of the final judgment:

13
14 (5) ~~A party's failure to move for certification under (b) for immediate appeal;~~

15
16 (6) ~~The trial court's denial of a certification motion under (b) for immediate~~
17 ~~appeal;~~

18
19 (7) ~~A party's failure to move to appeal under (d); and~~

20
21 (8) ~~The Court of Appeal's denial of a motion to appeal under (d).~~

22
23 *Rule 1269.5 adopted effective July 1, 1989; previously amended January 1, 1994 and January 1,*
24 *2002.*
25

26 **CHAPTER 3.5. Summary Dissolution**

27 Title Four, Special Rules for Trial Courts Division 1b, Family Law Rules Chapter 3.5,
28 Summary Dissolution, Chapter adopted effective January 1, 1970.

29 ***Rule 1270. Applicability of chapter***

30 ***Rule 1271. Commencing the proceeding***

31 ***Rule 1272. Revocation Rule 5.308. Revocation***

32 ***Rule 1273. Final judgment***
33

34 ***Rule 1270. Applicability of chapter***
35

36 The provisions of this chapter govern every proceeding for summary dissolution
37 pursuant to chapter 5 (beginning with section 2400) of part 3 of division 6 of the
38 Family Code and do not apply to any other proceeding.
39

40 *Rule 1270 adopted effective January 1, 1979; January 1, 1994.*
41

1 **Rule 1271. Commencing the proceeding**

2
3 ~~(a) A proceeding for summary dissolution is commenced by completing and filing~~
4 ~~in the superior court a joint petition for summary dissolution in the form~~
5 ~~prescribed by rule 1295.10.~~

6
7 ~~(b) Attachment to the petition of completed worksheet pages listing separate and~~
8 ~~community property and obligations shall constitutes compliance with chapter~~
9 ~~9 (beginning with section 2100) of part 1 of division 6 of the Family Code.~~

10
11 ~~(Subd (b) adopted effective January 1, 1993; previously amended effective January 1, 1994.)~~

12
13 ~~(c) The fee for filing the joint petition shall be the same as that charged for filing a~~
14 ~~petition in the form prescribed by rule 1281. No additional fee shall be charged~~
15 ~~for the filing of any form prescribed for use in a summary dissolution~~
16 ~~proceeding, except as required by Government Code section 26859.~~

17
18 ~~(Subd (c) adopted effective January 1, 1979, as subd (b), relettered effective January 1,~~
19 ~~1993.)~~

20
21 ~~Rule 1271 adopted effective January 1, 1979; amended effective January 1, 1993 and January 1,~~
22 ~~1994.~~

23
24 **Rule 1272.Revocation**

25
26 ~~At any time prior to the filing of a request for final judgment, either party may file a~~
27 ~~completed notice of revocation of summary dissolution petition in the form~~
28 ~~prescribed by rule 1295.30.~~

29
30 ~~Rule 1272 adopted effective January 1, 1979.~~

31
32 **Rule 1273. Final judgment**

33
34 ~~No final judgment may be entered in a proceeding for summary dissolution unless a~~
35 ~~party has completed and filed a request for final judgment in the form prescribed by~~
36 ~~rule 1295.20.~~

37
38 ~~Rule 1273 adopted effective January 1, 1979.~~

39
40 **CHAPTER 3.6. Child Support**

Chapter 3.6, consisting of rule 1274, adopted effective March 1, 1991; repealed effective January 1, 1994.

Rule 1274. [Repealed 1994]

Rule 1274 repealed effective January 1, 1994; amended effective March 1, 1991; adopted effective March 1, 1991. The repealed rule related to child support guideline.

CHAPTER 4. Forms

Title Four, Special Rules for Trial Courts—Division 1, Family Law Rules; Chapter 4, Forms; adopted January 1, 1970.

Note

These forms are not reproduced here. Copies are available from the court clerk.

~~*Rule 1275. Use of forms in nonfamily law proceedings*~~

~~*Rule 1276. Use of interstate forms*~~

~~*Rule 1277. [Repealed 2000]*~~

~~*Rule 1278. Status of family law and domestic violence forms*~~

~~*Rule 1280—1280.11. See Chapter 5*~~

~~*Rule 1281. Petition (Family Law)*~~

~~*Rule 1282. Response (Family Law)*~~

~~*Rule 1282.50. Appearance, Stipulation and Waivers (Family Law)*~~

~~*Rule 1283. Summons (Family Law)*~~

~~*Rule 1283.5. Proof of Service of Summons (Family Law)*~~

~~*Rule 1284. Confidential Counseling Statement (Marriage)*~~

~~*Rule 1285. Order to Show Cause (Family Law)*~~

~~*Rule 1285.05. Temporary Restraining Orders (Family Law)*~~

~~*Rule 1285.10. Notice of Motion (Family Law)*~~

~~*Rule 1285.15. [Renumbered 1990]*~~

~~*Rule 1285.20. Application for Order and Supporting Declaration (Family Law)*~~

~~*Rule 1285.25. [Revoked 1993]*~~

~~*Rule 1285.25(A). [Revoked 1993]*~~

~~*Rule 1285.25(B). [Revoked 1993]*~~

~~*Rule 1285.26. [Revoked 1993]*~~

~~*Rule 1285.27. Stipulation to Establish or Modify Child Support and Order (Family Law—Domestic Violence Prevention—Uniform Parentage)*~~

~~*Rule 1285.28. Order for Child Support Security Deposit and Evidence of Deposit (Family Law—Uniform Parentage)*~~

~~*Rule 1285.29. Application for Disbursement and Order for Disbursement from Child Support Security Deposit (Family Law—Uniform Parentage)*~~

~~Rule 1285.30. Notice of Motion and Motion for Simplified Modification of Order for Child, Spousal, or Family Support~~
~~Rule 1285.30(A). [Revoked 1995]~~
~~Rule 1285.31. Information Sheet—Simplified Way to Change Child, Spousal, or Family Support (Family Law)~~
~~Rule 1285.32. Responsive Declaration to Motion for Simplified Modification of Order for Child, Spousal, or Family Support~~
~~Rule 1285.32(A). [Revoked 1995]~~
~~Rule 1285.33. Information Sheet—How to Oppose a Request to Change Child, Spousal, or Family Support (Family Law)~~
~~Rule 1285.34. [Revoked 1995]~~
~~Rule 1285.36. [Revoked 1995]~~
~~Rule 1285.38. [Revoked 1995]~~
~~Rule 1285.39. [Revoked 1995]~~
~~Rule 1285.40. Responsive Declaration to Order to Show Cause or Notice of Motion (Family Law)~~
~~Rule 1285.50. Income and Expense Declaration (Family Law)~~
~~Rule 1285.50a. Income Information (Family Law)~~
~~Rule 1285.50b. Expense Information (Family Law)~~
~~Rule 1285.50c. Child Support Information (Family Law)~~
~~Rule 1285.52. Financial Statement (Simplified) (Family Law)~~
~~Rule 1285.55. Property Declaration (Family Law)~~
~~Rule 1285.56. Continuation of Property Declaration (Family Law)~~
~~Rule 1285.60. Order to Show Cause and Declaration for Contempt (Family Law)~~
~~Rule 1285.65. Ex Parte Application for Wage and Earnings Assignment Order (Family Law)~~
~~Rule 1285.70. Wage and Earnings Assignment Order (Family Law—Domestic Violence Prevention—Uniform Parentage)~~
~~Rule 1285.70A. [Revoked 1998]~~
~~Rule 1285.72. Stay of Service of Wage Assignment Order and Order (Family Law)~~
~~Rule 1285.75. Application and Order for Health Insurance Coverage (Family Law)~~
~~Rule 1285.76. Employer’s Health Insurance Return (Family Law—Uniform Parentage)~~
~~Rule 1285.78. Notice of Rights and Responsibilities—Health Care Costs and Reimbursement Procedures~~
~~Rule 1285.80. Abstract of Support Judgment (Family Law)~~
~~Rule 1286. Request to Enter Default (Family Law)~~
~~Rule 1286.50. Declaration for Default or Uncontested Dissolution or Legal Separation (Family Law)~~
~~Rule 1286.75. Request for Separate Trial (Family Law)~~
~~Rule 1287. Judgment (Family Law)~~

~~Rule 1287.50. Ex Parte Application for Restoration of Former Name After Entry of Judgment and Order (Family Law)~~
~~Rule 1288. Request and Declaration for Final Judgment of Dissolution of Marriage (Family Law)~~
~~Rule 1289. [Revoked 1984]~~
~~Rule 1290. Notice of Entry of Judgment (Family Law)~~
~~Rule 1291. [Revoked 1992]~~
~~Rule 1291.10. Notice of Motion and Declaration for Joinder (Family Law)~~
~~Rule 1291.15. Request for Joinder of Employee Benefit Plan and Order (Family Law)~~
~~Rule 1291.20. Responsive Declaration to Motion for Joinder—Consent Order of Joinder (Family Law)~~
~~Rule 1291.25. Notice of Appearance and Response of Employee Benefit Plan (Family Law)~~
~~Rule 1291.30. [Revoked 1985]~~
~~Rule 1291.35. Pleading on Joinder—Employee Benefit Plan (Family Law)~~
~~Rule 1291.40. Summons (Joinder) (Family Law)~~
~~Rule 1292. Declaration of Disclosure (Family Law)~~
~~Rule 1292.05. Declaration Regarding Service of Final Declaration of Disclosure (Family Law)~~
~~Rule 1292.10. Form Interrogatories (Family Law)~~
~~Rule 1292.11. Schedule of Assets and Debts (Family Law)~~
~~Rule 1292.15. Request for Production of an Income and Expense Declaration After Judgment (Family Law)~~
~~Rule 1295.10. Joint Petition for Summary Dissolution of Marriage (Family Law—Summary Dissolution)~~
~~Rule 1295.10[A]. Summary Dissolution Information~~
~~Rule 1295.11. Summary Dissolution Information—English (Cover Only)~~
~~Rule 1295.11a. Summary Dissolution Information Insert (Family Law—Summary Dissolution)~~
~~Rule 1295.12. Summary Dissolution Information—Spanish (Cover Only)~~
~~Rule 1295.20. Request for Final Judgment, Final Judgment of Dissolution of Marriage, and Notice of Entry of Judgment (Family Law—Summary Dissolution)~~
~~Rule 1295.30. Notice of Revocation of Petition for Summary Dissolution (Family Law—Summary Dissolution)~~
~~Rule 1295.90. Emergency Protective Order (CLETS) (Domestic Violence and Child Abuse Prevention)~~
~~Rule 1295.95. [Revoked 1990]~~
~~Rule 1296. Application and Declaration for Order (Domestic Violence)~~
~~Rule 1296(A). Instructions for Orders Prohibiting Domestic Violence~~
~~Rule 1296.10. Order to Show Cause and Temporary Restraining Order (CLETS) (Domestic Violence)~~

~~Rule 1296.15. Application and Order for Reissuance of Order to Show Cause (Family Law—Domestic Violence Prevention—Uniform Parentage)~~
~~Rule 1296.20. Responsive Declaration to Order to Show Cause (Domestic Violence Prevention)~~
~~Rule 1296.29. Restraining Order After Hearing (CLETS) (Domestic Violence)~~
~~Rule 1296.30. [Revoked 1992]~~
~~Rule 1296.31. Findings and Order After Hearing (Family Law—Domestic Violence Prevention—Uniform Parentage)~~
~~Rule 1296.31A. Child Custody and Visitation Order Attachment (Family Law—Domestic Violence Prevention—Uniform Parentage)~~
~~Rule 1296.31B. Child Support Information and Order Attachment (Family Law—Domestic Violence Prevention—Uniform Parentage)~~
~~Rule 1296.31B(1). Child Support Extended Information Attachment (Family Law—Domestic Violence Prevention—Uniform Parentage)~~
~~Rule 1296.31B(2). Child Support Extended Order Attachment (Family Law—Domestic Violence Prevention—Uniform Parentage)~~
~~Rule 1296.31B(3). [Revoked 1993]~~
~~Rule 1296.31C. Spousal or Family Support Order Attachment (Family Law)~~
~~Rule 1296.31D. Property Order Attachment (Family Law)~~
~~Rule 1296.31E. Domestic Violence Miscellaneous Orders Attachment (Domestic Violence Prevention—Uniform Parentage Act)~~
~~Rule 1296.40. Proof of Service~~
~~Rule 1296.60. Complaint to Establish Parental Relationship (Uniform Parentage)~~
~~Rule 1296.61. Standard Restraining Order (Uniform Parentage Act)~~
~~Rule 1296.65. Answer—Complaint to Establish Parental Relationship (Uniform Parentage)~~
~~Rule 1296.90. Notice of Delinquency (Family Law—Domestic Violence Prevention—Uniform Parentage)~~
~~Rule 1296.91. Notice of Motion to Determine Arrearages (Family Law—Domestic Violence Prevention—Uniform Parentage)~~
~~Rule 1296.95. Notice of Motion for Judicial Review of License Denial (Family Law)~~
~~Rule 1296.96. Order After Judicial Review of License Denial (Family Law)~~
~~Rule 1297. Application for Expedited Child Support Order (Family Code, §§ 3620-3634) (Family Law)~~
~~Rule 1297.10. Response to Application for Expedited Child Support Order and Notice of Hearing (Family Code, §§ 3620-3634) (Family Law)~~
~~Rule 1297.20. Expedited Child Support Order (Family Code, §§ 3620-3634) (Family Law)~~
~~Rule 1297.80. Notice of Review Hearing Regarding Child Support and Recommendation of Commissioner or Referee (CCP § 640.1) (Family Law)~~
~~Rule 1297.82. Order After Review Hearing (CCP § 640.1) (Child Support)~~
~~Rule 1297.90. Application for Notice of Support Arrearage (Support Arrearage)~~

~~Rule 1297.91. Proof of Service of Application (Support Arrearage)~~
~~Rule 1297.92. Notice of Support Arrearage (Support Arrearage)~~
~~Rule 1297.93. Notice to Judgment Debtor (Support Arrearage)~~
~~Rule 1298.01. Summons (Governmental)~~
~~Rule 1298.02. Answer to Governmental Complaint to Establish Parental Relationship or Child Support or Both (Governmental)~~
~~Rule 1298.03. Request for Order and Supporting Declaration (Governmental)~~
~~Rule 1298.04. Declaration and Request for Order and Order (Support Enforcement and Earnings Assignment) (Governmental)~~
~~Rule 1298.045. Order for Blood (Parentage) Testing~~
~~Rule 1298.05. Response to Governmental Notice of Motion or Order to Show Cause (Governmental)~~
~~Rule 1298.06. Stipulation and Order (Governmental)~~
~~Rule 1298.07. Order after Hearing (Governmental)~~
~~Rule 1298.08. Request to Enter Default (Governmental)~~
~~Rule 1298.085. Declaration for Default or Uncontested Judgment (Governmental)~~
~~Rule 1298.09. Notice of Motion (Governmental)~~
~~Rule 1298.10. Governmental Complaint to Establish Parental Relationship and Child Support (Governmental)~~
~~Rule 1298.11. Stipulation for Entry of Judgment and Judgment (Governmental)~~
~~Rule 1298.12. Judgment Establishing Parental Relationship and Child Support (Governmental)~~
~~Rule 1298.30. Statement for Registration of Foreign Support Order~~
~~Rule 1299.01. Summons and Complaint or Supplemental Complaint Regarding Parental Obligations~~
~~Rule 1299.04. Answer to Complaint or Supplemental Complaint regarding Parental Obligations~~
~~Rule 1299.05. Information Sheet for Service of Process~~
~~Rule 1299.07. Stipulation for Judgment or Supplemental Judgment Regarding Parental Obligations and Judgment~~
~~Rule 1299.10. Request to Enter Default Judgment~~
~~Rule 1299.13. Judgment Regarding Parental Obligations~~
~~Rule 1299.16. Notice of Entry of Judgment and Certificate of Service by Mail~~
~~Rule 1299.17. Declaration for Amended Proposed Judgment~~
~~Rule 1299.19. Notice and Motion to Cancel (Set Aside) Support Order Based on Presumed Income and Proposed Answer~~
~~Rule 1299.22. Stipulation and Order~~
~~Rule 1299.25. Notice of Wage and Earnings Assignment~~
~~Rule 1299.28. Request for Hearing Regarding Notice of Wage and Earnings Assignment~~
~~Rule 1299.40. Request for Judicial Determination of Support Arrearages~~
~~Rule 1299.43. Notice of Opposition and Notice of Motion on Claim of Exemption~~

~~Rule 1299.46. Order Determining Claim of Exemption or third-Party Claim~~
~~Rule 1299.49. Notice of District Attorney of Intent to Take Independent Action to~~
~~Enforce Support Order~~
~~Rule 1299.52. Response of District Attorney to Notice of Intent to Take Independent~~
~~Action to Enforce Support Order~~

Rule 1275. Use of forms in nonfamily law proceedings

The forms specified by this chapter may be used, at the option of the party, in any proceeding involving a financial obligation growing out of the relationship of parent and child or husband and wife, to the extent they are appropriate to that proceeding.

Rule 1275 renumbered effective July 1, 2001; adopted as rule 1275 effective July 1, 1985.

Rule 1276. Use of interstate forms

Notwithstanding any other provision of these rules, all Uniform Interstate Family Support Act forms approved by either the National Conference of Commissioners on Uniform State Laws or the U.S. Department of Health and Human Services are adopted for use in family law and other support actions in California.

Rule 1276 adopted effective July 1, 1988; amended effective January 1, 1998.

Rule 1277. [Repealed 2000]

Rule 1277 repealed effective January 1, 2000; adopted effective January 1, 1995.

2000—Rule 1277 is repealed because it is obsolete.

Rule 1278. Status of family law and domestic violence forms

Each form adopted or approved by the Judicial Council for use in any proceeding under the Family Code, including but not limited to forms adopted as rules 1281–1299.74 and forms adopted in the ADOPT, DV, and FJ series of forms, are adopted as rules of court under the authority of Family Code section 211 article VI, section 6 of the California Constitution; and other applicable law.

Rule 1278 adopted effective January 1, 2001.

Rule 1279. Reference to UCCJEA instead of UCCJA

Whenever reference is made to the “Uniform Child Custody Jurisdiction Act” or the “UCCJA” in any adopted or approved Judicial Council form, that reference shall be

1 deemed to also refer, as appropriate, to the “Uniform Child Custody Jurisdiction and
2 Enforcement Act” or “UCCJEA.”

3
4 *Rule 1279 adopted effective January 1, 2000.*
5

6 **~~Rules 1280.15505–1280.115555. See Chapter 5~~**

7 **2002 Note:** Forms previously numbered 1281 et seq. have been renumbered starting with FL-100.

8 **~~Rule 1281. Petition (Family Law)~~**
9

10 **Note**

11 This form is not reproduced here. It is available from the court clerk.

12 *Rule 1281 revised effective January 1, 1995; previously revised effective January 1, 1972,*
13 *January 1, 1980, January 1, 1983, July 1, 1990, July 1, 1991, January 1, 1993, and January 1,*
14 *1994.*
15

16 **~~Rule 1282. Response (Family Law)~~**
17

18 **Note**

19 This form is not reproduced here. It is available from the court clerk.

20 *Rule 1282 revised effective January 1, 1995; previously revised effective January 1, 1972,*
21 *January 1, 1980, January 1, 1983, July 1, 1990, and January 1, 1993; adopted effective January*
22 *1, 1970.*
23

24 **~~Rule 1282.50. Appearance, Stipulation and Waivers (Family Law)~~**
25

26 **Note**

27 This form is not reproduced here. It is available from the court clerk.

28 *Rule 1282.50 approved for Optional use effective January 1, 1980.*
29

30 **~~Rule 1283. Summons (Family Law)~~**
31

32 **Note**

33 This form is not reproduced here. It is available from the court clerk.

34 *Rule 1283 revised effective January 1, 1995; previously revised effective July 1, 1970, January 1,*
35 *1972, July 1, 1972, January 1, 1975, January 1, 1980, July 1, 1990, and January 1, 1991;*
36 *adopted effective January 1, 1970.*
37

38 **~~Rule 1283.5. Proof of Service of Summons (Family Law)~~**
39

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1283.5 adopted effective January 1, 1991.

Rule 1284. Confidential Counseling Statement (Marriage)

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1284 adopted effective January 1, 1975.

Rule 1285. Order to Show Cause (Family Law)

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1285 revised effective January 1, 1994; previously revised effective July 1, 1985; adopted January 1, 1980.

Rule 1285.05. Temporary Restraining Orders (Family Law)

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1285.05 revised effective January 1, 1995; previously revised effective January 1, 1985, January 1, 1987, July 1, 1987, and July 1, 1992; adopted effective January 1, 1981.

Rule 1285.10. Notice of Motion (Family Law)

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1285.10 revised effective January 1, 1994; previously revised effective January 1, 1980, and July 1, 1985; adopted effective January 1, 1972.

Rule 1285.15. [Renumbered 1990]

Rule 1285.15 renumbered rule 1292.15 effective July 1, 1990; adopted effective January 1, 1986.

Rule 1285.20. Application for Order and Supporting Declaration (Family Law)

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1285.20 revised effective January 1, 1995; previously revised effective January 1, 1980, July 1, 1980, January 1, 1981, January 1, 1987, July 1, 1987, July 1, 1990, and January 1, 1993; adopted effective January 1, 1972.

Rule 1285.25. [Revoked 1993]

Rule 1285.25 revoked effective January 1, 1993; previously revised effective July 1, 1986, July 1, 1987, and July 1, 1989; approved effective July 1, 1985. The revoked rule related to Minimum Child Support Worksheet (Family Law).

Rule 1285.25(A). [Revoked 1993]

Rule 1285.25(A) revoked effective January 1, 1993; approved effective July 15, 1985. The revoked rule related to Minimum Child Support Information Booklet.

Rule 1285.25(B). [Revoked 1993]

Rule 1285.25(B) revoked effective January 1, 1993; previously revised effective July 1, 1986, July 1, 1987, and July 1, 1989; approved effective July 1, 1985. The revoked rule related to Appendix A (Minimum Child Support Information Booklet).

Rule 1285.26. [Revoked 1993]

Rule 1285.26 revoked effective January 1, 1993; amended effective July 1, 1989; adopted effective January 1, 1989. The revoked rule related to Hardship Deduction Schedule for Children Residing with Parent (Family Law).

Rule 1285.27. Stipulation to Establish or Modify Child Support and Order (Family Law—Domestic Violence Prevention—Uniform Parentage)

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1285.27 revised effective January 1, 1995; previously revised effective January 1, 1986, July 1, 1991, January 1, 1993, and January 1, 1994; approved effective July 1, 1985.

Rule 1285.28. Order for Child Support Security Deposit and Evidence of Deposit (Family Law—Uniform Parentage)

Note

This form is not reproduced here. It is available from the court clerk.

1 *Rule 1285.28 revised effective January 1, 1995; adopted effective January 1, 1992.*

2
3 **~~Rule 1285.29. Application for Disbursement and Order for Disbursement from Child~~**
4 **~~Support Security Deposit (Family Law—Uniform Parentage)~~**
5

6 **Note**

7 This form is not reproduced here. It is available from the court clerk.

8 *Rule 1285.29 revised effective January 1, 1995; adopted effective January 1, 1992.*

9
10 **~~Rule 1285.30. Notice of Motion and Motion for Simplified Modification of Order for~~**
11 **~~Child, Spousal, or Family Support~~**
12

13 **Note**

14 This form is not reproduced here. It is available from the court clerk.

15 *Rule 1285.30 adopted effective July 1, 1997.*

16
17 **~~Rule 1285.30(A). [Revoked 1995]~~**
18

19 *Rule 1285.30(A), Appendix A, revoked January 1, 1995; revised effective January 1, 1988, and*
20 *July 1, 1991; adopted effective July 1, 1984. The revoked rule related to Information Sheet—New*
21 *and Simplified Way to Change Child or Spousal Support.*
22

23 **~~Rule 1285.31. Information Sheet—Simplified Way to Change Child, Spousal, or~~**
24 **~~Family Support (Family Law)~~**
25

26 **Note**

27 This form is not reproduced here. It is available from the court clerk.

28 *Rule 1285.31 adopted effective July 1, 1997.*

29
30 **~~Rule 1285.32. Responsive Declaration to Motion for Simplified Modification of Order~~**
31 **~~for Child, Spousal, or Family Support~~**
32

33 **Note**

34 This form is not reproduced here. It is available from the court clerk.

35 *Rule 1285.32 revised effective January 1, 1998; adopted effective July 1, 1997.*

36
37 **~~Rule 1285.32(A). [Revoked 1995]~~**
38

39 *Rule 1285.32(A) revised effective January 1, 1988;*
40

Rule 1285.32(A), Appendix A, revoked effective January 1, 1995, revised effective July 1, 1991, and January 1, 1988; Appendix A added January 1, 1988; adopted effective July 1, 1984. The revoked rule related to Information Sheet—How to Oppose a Request to Change Child or Spousal Support.

1285.33. Information Sheet—How to Oppose a Request to Change Child, Spousal, or Family Support (Family Law)

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1285.33 adopted effective July 1, 1997.

Rule 1285.34. [Revoked 1995]

Rule 1285.34 revoked effective January 1, 1995; revised effective January 1, 1988, July 1, 1990, and January 1, 1994; adopted effective July 1, 1984. The revoked rule related to Order Changing Support (Uncontested) (Family Code, §§ 3680-3694) (Family Law).

Rule 1285.36. [Revoked 1995]

Rule 1285.36 revoked effective January 1, 1995; revised effective January 1, 1988, July 1, 1990, and January 1, 1994; adopted effective July 1, 1984. The revoked rule related to Order Changing Support (Contested—No Attorneys) (Family Code, §§ 3680-3694) (Family Law).

Rule 1285.38. [Revoked 1995]

Rule 1285.38 revoked effective January 1, 1995; revised effective January 1, 1988; adopted effective July 1, 1984. The revoked rule related to Proof of Service (Simplified Support Modification) (Family Law).

Rule 1285.39. [Revoked 1995]

Rule 1285.39 revoked effective January 1, 1995; revised effective January 1, 1988; adopted effective July 1, 1984. The revoked rule related to Certificate of Filing with District Attorney (Simplified Support Modification) (Family Law).

Rule 1285.40. Responsive Declaration to Order to Show Cause or Notice of Motion (Family Law)

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1285.40 revised effective January 1, 1993; previously revised effective January 1, 1980, July 1, 1980, January 1, 1981, July 1, 1985, and July 1, 1987; adopted effective January 1, 1972.

1 **~~Rule 1285.50. Income and Expense Declaration (Family Law)~~**

2
3 **Note**

4 This form is not reproduced here. It is available from the court clerk.

5 *Rule 1285.50 revised effective January 1, 1995; previously revised effective January 1, 1980,*
6 *July 1, 1985, January 1, 1986, and January 1, 1993; adopted effective January 1, 1972.*

7
8 **~~Rule 1285.50a. Income Information (Family Law)~~**

9
10 **Note**

11 This form is not reproduced here. It is available from the court clerk.

12 *Rule 1285.50a revised effective January 1, 1995; previously revised effective January 1, 1986,*
13 *and January 1, 1993; adopted effective July 1, 1985.*

14
15 **~~Rule 1285.50b. Expense Information (Family Law)~~**

16
17 **Note**

18 This form is not reproduced here. It is available from the court clerk.

19 *Rule 1285.50b revised effective January 1, 1995; previously revised effective January 1, 1986,*
20 *January 1, 1993, and July 1, 1994; adopted effective July 1, 1985.*

21
22 **~~Rule 1285.50c. Child Support Information (Family Law)~~**

23
24 **Note**

25 This form is not reproduced here. It is available from the court clerk.

26 *Rule 1285.50c revised effective January 1, 1995; adopted effective January 1, 1993.*

27
28 **~~Rule 1285.52. Financial Statement (Simplified) (Family Law)~~**

29
30 **Note**

31 This form is not reproduced here. It is available from the court clerk.

32
33 *Rule 1285.52 adopted effective July 1, 1995.*

34
35 **~~Rule 1285.55. Property Declaration (Family Law)~~**

36
37 **Note**

38 This form is not reproduced here. It is available from the court clerk.

39 *Rule 1285.55 adopted effective January 1, 1980.*

~~Rule 1285.56. Continuation of Property Declaration (Family Law)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1285.56 adopted effective January 1, 1980.

~~Rule 1285.60. Order to Show Cause and Declaration for Contempt (Family Law)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1285.60 revised effective January 1, 1980; adopted effective January 1, 1972.

~~Rule 1285.62. Declaration of Support Arrearage (Family Law)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1285.62 adopted effective July 1, 1997.

~~Rule 1285.625. Attachment to Declaration of Support Arrearage (Family Law)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1285.625 approved effective July 1, 1997.

~~Rule 1285.65. Ex Parte Application for Wage and Earnings Assignment Order (Family Law)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1285.65 revised effective January 1, 1998; previously revised effective January 1, 1986, January 1, 1987, July 1, 1990, January 1, 1995, and July 1, 1997; adopted effective January 1, 1982.

~~Rule 1285.70. Wage and Earnings Assignment Order (Family Law—Domestic Violence Prevention—Uniform Parentage)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1285.70 revised effective January 1, 1995; previously revised effective January 1, 1976, January 1, 1980, July 1, 1984, January 1, 1986, January 1, 1987, July 1, 1990, July 1, 1991, January 1, 1994, and July 1, 1994; adopted effective January 1, 1972.

~~Rule 1285.70A. [Repealed]~~

Rule 1285.70A adopted effective January 1, 1994; repealed July 1, 1998.

~~Rule 1285.72. Stay of Service of Wage Assignment Order and Order (Family Law)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1285.72 adopted effective July 1, 1990.

~~Rule 1285.75. Application and Order for Health Insurance Coverage (Family Law)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1285.75 revised effective January 1, 1994; adopted effective January 1, 1989, July 1, 1990.

~~Rule 1285.76. Employer's Health Insurance Return (Family Law—Uniform Parentage)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1285.76 revised effective January 1, 1995; adopted effective January 1, 1992.

~~Rule 1285.78. Notice of Rights and Responsibilities—Health Care Costs and Reimbursement Procedures~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1285.78 adopted effective January 1, 1995.

~~Rule 1285.80. Abstract of Support Judgment (Family Law)~~

Note

This form is not reproduced here. It is available from the court clerk.

*Rule 1285.80 revised effective July 1, 1989; previously revised effective January 1, 1989;
adopted effective January 1, 1987.*

~~Rule 1286. Request to Enter Default (Family Law)~~

Note

~~This form is not reproduced here. It is available from the court clerk.~~

*Rule 1286 revised effective January 1, 1980; previously revised effective January 1, 1976;
adopted effective January 1, 1970.*

**~~Rule 1286.50. Declaration for Default or Uncontested Dissolution or Legal
Separation (Family Law)~~**

Note

~~This form is not reproduced here. It is available from the court clerk.~~

*Rule 1286.50 revised effective July 1, 1994; previously revised effective July 1, 1984, January 1,
1987, and July 1, 1990; adopted effective January 1, 1982.*

~~Rule 1286.75. Request for Separate Trial (Family Law)~~

Note

~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1286.75 adopted effective July 1, 1995.

~~Rule 1287. Judgment (Family Law)~~

Note

~~This form is not reproduced here. It is available from the court clerk.~~

*Rule 1287 revised effective January 1, 1997; previously revised effective July 1, 1985, January 1,
1993, and January 1, 1995; adopted effective July 1, 1984.*

Former Rule

Former rule 1287 (Interlocutory Judgment of Dissolution of Marriage) was adopted effective
January 1, 1972; revised effective January 1, 1980, and January 1, 1981; and revoked effective
July 1, 1984.

**~~Rule 1287.50. Ex Parte Application for Restoration of Former Name After Entry of
Judgment and Order (Family Law)~~**

Note

~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1287.50 revised effective July 1, 1994; adopted effective January 1, 1987.

**Rule 1288. Request and Declaration for Final Judgment of Dissolution of Marriage
(Family Law)**

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1288 revised effective January 1, 1980; adopted effective January 1, 1970.

Rule 1289. [Revoked 1984]

*Rule 1289 adopted effective January 1, 1970; revised effective January 1, 1972, January 1, 1980,
January 1, 1981, and January 1, 1982; revoked effective July 1, 1984. The revoked rule related
to Final Judgment.*

Rule 1290. Notice of Entry of Judgment (Family Law)

Note

This form is not reproduced here. It is available from the court clerk.

*Rule 1290 revised effective July 1, 1985; previously revised effective January 1, 1972, January 1,
1980, and July 1, 1984; adopted effective January 1, 1970.*

Rule 1291. [Revoked 1992]

*Rule 1291 revoked effective January 1, 1992; revised effective July 1, 1986, and July 1, 1990;
adopted effective July 1, 1985. The form related to Findings and Order After Hearing.*

Rule 1291.10. Notice of Motion and Declaration for Joinder (Family Law)

Note

This form is not reproduced here. It is available from the court clerk.

*Rule 1291.10 revised effective January 1, 1995; previously revised effective January 1, 1980;
adopted effective January 1, 1972.*

Rule 1291.15. Request for Joinder of Employee Benefit Plan and Order (Family Law)

Note

This form is not reproduced here. It is available from the court clerk.

*Rule 1291.15 revised effective January 1, 1995; previously revised effective January 1, 1979;
adopted effective January 1, 1978.*

~~Rule 1291.20. Responsive Declaration to Motion for Joinder—Consent Order of Joinder (Family Law)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1291.20 revised effective January 1, 1980; adopted effective January 1, 1972.

~~Rule 1291.25. Notice of Appearance and Response of Employee Benefit Plan (Family Law)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1291.25 revised effective January 1, 1995; previously revised effective January 1, 1979; adopted effective January 1, 1978.

~~Rule 1291.30. [Revoked 1985]~~

Rule 1291.30 approved effective January 1, 1980; revoked effective July 1, 1985. See form 1291, Findings and Order After Hearing.

~~Rule 1291.35. Pleading on Joinder—Employee Benefit Plan (Family Law)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1291.35 revised effective January 1, 1995; adopted effective January 1, 1979.

~~Rule 1291.40. Summons (Joinder) (Family Law)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1291.40 revised effective January 1, 1979; previously revised effective July 1, 1972, January 1, 1975, and January 1, 1978; adopted effective January 1, 1972.

~~Rule 1292. Declaration of Disclosure (Family Law)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1292 revised effective January 1, 1994; adopted effective January 1, 1993.

**~~Rule 1292.05. Declaration Regarding Service of Final Declaration of Disclosure
(Family Law)~~**

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1292.05 adopted effective January 1, 1994.

~~Rule 1292.10. Form Interrogatories (Family Law)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1292.10 approved effective July 1, 1990.

~~Rule 1292.11. Schedule of Assets and Debts (Family Law)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1292.11 approved effective July 1, 1990

**~~Rule 1292.15. Request for Production of an Income and Expense Declaration After
Judgment (Family Law)~~**

Note

This form is not reproduced here. It is available from the court clerk.

*Rule 1292.15 revised effective January 1, 1994; adopted as form 1285.15 effective January 1,
1986; renumbered effective July 1, 1990.*

**~~Rule 1295.10. Joint Petition for Summary Dissolution of Marriage (Family Law—
Summary Dissolution)~~**

Note

This form is not reproduced here. It is available from the court clerk.

*Rule 1295.10 as revised effective January 1, 1995; previously revised effective January 1, 1981,
January 1, 1983, January 1, 1985, January 1, 1987, January 1, 1989, January 1, 1991, and
January 1, 1993; adopted effective January 1, 1979.*

~~Rule 1295.10[A]. Summary Dissolution Information~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1295.10(A) revised effective January 1, 1981; approved effective January 1, 1979.

~~Rule 1295.11. Summary Dissolution Information—English (Cover Only)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1295.11 revised effective January 1, 1991.

~~Rule 1295.11a. Summary Dissolution Information Insert (Family Law—Summary Dissolution)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1295.11a adopted effective January 1, 1993.

~~Rule 1295.12. Summary Dissolution Information—Spanish (Cover Only)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1295.12 revised effective January 1, 1991.

~~Rule 1295.20. Request for Final Judgment, Final Judgment of Dissolution of Marriage, and Notice of Entry of Judgment (Family Law—Summary Dissolution)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1295.20 revised effective January 1, 1995; previously revised effective January 1, 1981, January 1, 1985, July 1, 1985, and January 1, 1993; adopted effective January 1, 1979.

~~Rule 1295.30. Notice of Revocation of Petition for Summary Dissolution (Family Law—Summary Dissolution)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1295.30 revised effective January 1, 1995; adopted effective January 1, 1979.

~~Rule 1295.90. Emergency Protective Order (CLETS) (Domestic Violence and Child Abuse Prevention)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1295.90 revised effective January 1, 1998; adopted effective July 1, 1988; previously revised effective January 1, 1990, January 1, 1992, January 1, 1994, and July 1, 1997.

~~Rule 1295.95. [Revoked 1990]~~

Rule 1295.95 adopted effective July 1, 1988; revoked effective January 1, 1990. The revoked rule related to Emergency Protective Order.

~~Rule 1296. Application and Declaration for Order (Domestic Violence)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1296 revised effective January 1, 1997; adopted effective July 1, 1980; previously revised effective January 1, 1981, January 1, 1985, January 1, 1991, January 1, 1994.

~~Rule 1296(A). Instructions for Orders Prohibiting Domestic Violence~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1296(A) revised effective July 1, 1997; approved July 1, 1980; previously revised effective July 1, 1985, and January 1, 1994; revised and renumbered effective July 1, 1988.

~~Rule 1296.10. Order to Show Cause and Temporary Restraining Order (CLETS) (Domestic Violence)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1296.10 as revised effective January 1, 1997; previously revised effective January 1, 1981, January 1, 1985, January 1, 1991, and January 1, 1994; adopted effective July 1, 1980.

~~Rule 1296.15. Application and Order for Reissuance of Order to Show Cause (Family Law—Domestic Violence Prevention—Uniform Parentage)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1296.15 as revised effective January 1, 1985; adopted effective January 1, 1981.

~~Rule 1296.20. Responsive Declaration to Order to Show Cause (Domestic Violence Prevention)~~

Note

~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1296.20 as revised effective January 1, 1994; previously revised effective January 1, 1985, and January 1, 1991; adopted effective July 1, 1980.

~~Rule 1296.29. Restraining Order After Hearing (CLETS) (Domestic Violence)~~

Note

~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1296.29 as revised effective January 1, 1997; adopted effective July 1, 1991; previously revised effective January 1, 1994.

~~Rule 1296.30. [Revoked 1992]~~

Rule 1296.30 revoked effective January 1, 1992; revised effective January 1, 1981, January 1, 1985, and January 1, 1991; adopted effective July 1, 1980. The revoked rule related to Order After Hearing.

~~Rule 1296.31. Findings and Order After Hearing (Family Law—Domestic Violence Prevention—Uniform Parentage)~~

Note

~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1296.31 adopted effective July 1, 1991. Revised effective January 1, 1992.

~~Rule 1296.31A. Child Custody and Visitation Order Attachment (Family Law—Domestic Violence Prevention—Uniform Parentage)~~

Note

~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1296.31A revised effective January 1, 1995; adopted effective July 1, 1991.

~~Rule 1296.31B. Child Support Information and Order Attachment (Family Law—Domestic Violence Prevention—Uniform Parentage)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1296.31B revised effective January 1, 1995; adopted effective January 1, 1993.

**~~Rule 1296.31B(1). Child Support Extended Information Attachment (Family Law—
Domestic Violence Prevention—Uniform Parentage)~~**

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1296.31B(1) as revised effective January 1, 1994; adopted effective January 1, 1993.

Former Rule

Former rule 1296.31B(1), relating to Child Support Order Attachment (Part One of Three), was adopted effective July 1, 1991, and revoked effective January 1, 1993.

**~~Rule 1296.31B(2). Child Support Extended Order Attachment (Family Law—
Domestic Violence Prevention—Uniform Parentage)~~**

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1296.31B(2) revised effective January 1, 1995; adopted effective January 1, 1993.

Former Rule

Former rule 1296.31B(2), relating to Child Support Order Attachment (Part Two of Three), was adopted effective July 1, 1991, and revoked effective January 1, 1993.

~~Rule 1296.31B(3). [Revoked 1993]~~

Rule 1296.31B(3) adopted effective July 1, 1991, and revoked effective January 1, 1993. See rule 1296.31B(2). The revoked rule related to Child Support Order Attachment (Part Three of Three).

~~Rule 1296.31C. Spousal or Family Support Order Attachment (Family Law)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1296.31C revised effective January 1, 1995; adopted effective July 1, 1991.

~~Rule 1296.31D. Property Order Attachment (Family Law)~~

Note

This form is not reproduced here. It is available from the court clerk.

1 *Rule 1296.31D revised effective January 1, 1995; adopted effective July 1, 1991.*

2
3 **~~Rule 1296.31E. Domestic Violence Miscellaneous Orders Attachment (Domestic~~**
4 **~~Violence Prevention—Uniform Parentage Act)~~**

5
6 **Note**

7 This form is not reproduced here. It is available from the court clerk.

8 *Rule 1296.31E revised effective January 1, 1995; adopted effective January 1, 1992.*

9
10 **~~Rule 1296.40. Proof of Service~~**

11
12 **Note**

13 This form is not reproduced here. It is available from the court clerk.

14
15 *Rule 1296.40 as revised effective January 1, 1985; adopted effective July 1, 1980.*

16
17 **~~Rule 1296.60. Complaint to Establish Parental Relationship (Uniform Parentage)~~**

18
19 **Note**

20 This form is not reproduced here. It is available from the court clerk.

21 *Rule 1296.60 revised effective January 1, 1994; previously revised effective January 1, 1986;*
22 *approved effective January 1, 1985.*

23
24 **~~Rule 1296.61. Standard Restraining Order (Uniform Parentage Act)~~**

25
26 **Note**

27 This form is not reproduced here. It is available from the court clerk.

28 *Rule 1296.61 as revised effective January 1, 1991; approved effective July 1, 1990.*

29
30 **~~Rule 1296.65. Answer—Complaint to Establish Parental Relationship (Uniform~~**
31 **~~Parentage)~~**

32
33 **Note**

34 This form is not reproduced here. It is available from the court clerk.

35 *Rule 1296.65 as revised effective January 1, 1994; approved effective January 1, 1986.*

36
37 **~~Rule 1296.90. Notice of Delinquency (Family Law—Domestic Violence Prevention—~~**
38 **~~Uniform Parentage)~~**

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1296.90 revised effective January 1, 1995; adopted effective March 1, 1992.

~~Rule 1296.91. Notice of Motion to Determine Arrearages (Family Law—Domestic Violence Prevention—Uniform Parentage)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1296.91 revised effective January 1, 1994; adopted effective March 1, 1992.

~~Rule 1296.95. Notice of Motion for Judicial Review of License Denial (Family Law)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1296.95 adopted effective January 1, 1993.

~~Rule 1296.96. Order After Judicial Review of License Denial (Family Law)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1296.96 adopted effective January 1, 1993.

~~Rule 1297. Application for Expedited Child Support Order (Family Code, §§ 3620-3634) (Family Law)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1297 revised effective January 1, 1994; adopted effective January 1, 1986.

~~Rule 1297.10. Response to Application for Expedited Child Support Order and Notice of Hearing (Family Code, §§ 3620-3634) (Family Law)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1297.10 revised effective January 1, 1994; adopted effective January 1, 1986.

~~Rule 1297.20. Expedited Child Support Order (Family Code, §§ 3620-3634) (Family Law)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1297.20 revised effective January 1, 1995; previously revised effective January 1, 1994; adopted effective January 1, 1986.

~~Rule 1297.80. [Repealed 1999]~~

Rule 1297.80 adopted effective January 1, 1987; repealed January 1, 1999.

~~Rule 1297.82. [Repealed 1999]~~

Rule 1297.82 revised effective January 1, 1995; adopted effective January 1, 1987; repealed January 1, 1999.

~~Rule 1297.90. Application for Notice of Support Arrearage (Support Arrearage)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1297.90 revised effective January 1, 1990; adopted effective July 1, 1989.

~~Rule 1297.91. Proof of Service of Application (Support Arrearage)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1297.91 revised effective January 1, 1990; adopted effective July 1, 1989.

~~Rule 1297.92. Notice of Support Arrearage (Support Arrearage)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1297.92 revised effective January 1, 1990; adopted effective July 1, 1989.

~~Rule 1297.93. Notice to Judgment Debtor (Support Arrearage)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1297.93 revised effective January 1, 1990; adopted effective July 1, 1989.

~~Rule 1298.01. Summons (Governmental)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1298.01 adopted effective July 1, 1994.

**~~Rule 1298.02. Answer to Governmental Complaint to Establish Parental Relationship
or Child Support or Both (Governmental)~~**

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1298.02 adopted effective July 1, 1994.

~~Rule 1298.03. Request for Order and Supporting Declaration (Governmental)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1298.03 adopted effective July 1, 1994.

**~~Rule 1298.04. Declaration and Request for Order and Order (Support Enforcement
and Earnings Assignment) (Governmental)~~**

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1298.04 revised effective July 1, 1997; adopted effective January 1, 1995.

~~Rule 1298.045. Order for Blood (Parentage) Testing~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1298.045 adopted effective January 1, 1995.

**~~Rule 1298.05. Response to Governmental Notice of Motion or Order to Show Cause
(Governmental)~~**

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1298.05 adopted effective July 1, 1994.

~~Rule 1298.06. Stipulation and Order (Governmental)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1298.06 revised effective January 1, 1995; adopted effective July 1, 1994.

Rule 1298.07. Order after Hearing (Governmental)

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1298.07 revised effective July 1, 1997; adopted effective July 1, 1994; previously revised effective January 1, 1995.

Rule 1298.08. Request to Enter Default (Governmental)

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1298.08 adopted effective July 1, 1994.

Rule 1298.085. Declaration for Default or Uncontested Judgment (Governmental)

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1298.085 adopted effective January 1, 1995.

Rule 1298.09. Notice of Motion (Governmental)

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1298.09 adopted effective July 1, 1994.

Rule 1298.10. Governmental Complaint to Establish Parental Relationship and Child Support (Governmental)

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1298.10 revised effective January 1, 1995; adopted effective January 1, 1993.

Rule 1298.11. Stipulation for Entry of Judgment and Judgment (Governmental)

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1298.11 revised effective January 1, 1995; adopted effective January 1, 1993.

**~~Rule 1298.12. Judgment Establishing Parental Relationship and Child Support
(Governmental)~~**

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1298.12 revised effective January 1, 1995; adopted effective January 1, 1993.

~~Rule 1298.30. Statement for Registration of Foreign Support Order (Governmental)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1298.30 adopted effective July 1, 1997.

**~~Rule 1299.01. Summons and Complaint or Supplemental Complaint Regarding
Parental Obligations (Governmental)~~**

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1299.01 revised effective January 1, 1998; adopted effective July 1, 1997

**~~Rule 1299.04. Answer to Complaint or Supplemental Complaint Regarding Parental
Obligations (Governmental)~~**

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1299.04 adopted effective July 1, 1997.

~~Rule 1299.05. Information Sheet for Service of Process (Governmental)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1299.05 approved effective July 1, 1997.

~~Rule 1299.07. Stipulation for Judgment or Supplemental Judgment Regarding Parental Obligations and Judgment (Governmental)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1299.07 revised effective January 1, 1998; adopted effective July 1, 1997.

~~Rule 1299.10. Request to Enter Default Judgment (Governmental)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1299.10 adopted effective July 1, 1997.

~~Rule 1299.13. Judgment Regarding Parental Obligations (Governmental)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1299.13 revised effective January 1, 1998; adopted effective July 1, 1997.

~~Rule 1299.16. Notice of Entry of Judgment and Certification of Service by Mail (Governmental)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1299.16 adopted effective July 1, 1997.

~~Rule 1299.17. Declaration for Amended Proposed Judgment (Governmental)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1299.17 revised effective January 1, 1998; adopted effective July 1, 1997.

~~Rule 1299.19. Notice Motion to Cancel (Set Aside) Support Order Based on Presumed Income and Proposed Answer (Governmental)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1299.19 adopted effective July 1, 1997.

~~Rule 1299.22. Stipulation and Order (Governmental)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1299.22 revised effective January 1, 1998; adopted effective July 1, 1997.

~~Rule 1299.25. Notice of Wage and Earnings Assignment (Governmental)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1299.25 revised effective January 1, 1998; adopted effective July 1, 1997.

~~Rule 1299.28. Request for Hearing regarding Notice of Wage and Earnings Assignment (Governmental)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1299.28 adopted effective July 1, 1997.

~~Rule 1299.40. Request for Judicial Determination of Support Arrearages (Governmental)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1299.40 adopted effective July 1, 1997.

~~Rule 1299.43. Notice of Opposition and Notice of Motion on Claim Exemption (Governmental)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1299.43 revised effective January 1, 1998; adopted effective July 1, 1997.

~~Rule 1299.46. Order Determining Claim of Exemption or Third-Party Claim (Governmental)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1299.46 adopted effective July 1, 1997.

~~Rule 1299.49. Notice to District Attorney of Intent to Take Independent Action to Enforce Support Order (Governmental)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1299.49 adopted effective July 1, 1997.

~~Rule 1299.52. Response of District Attorney to Notice of Intent to Take Independent Action to Enforce Support Order (Governmental)~~

Note

This form is not reproduced here. It is available from the court clerk.

Rule 1299.52 adopted effective July 1, 1997.

CHAPTER 56.0 Rules for Title IV-D Support Actions

Adopted effective July 1, 1997; amended and renumbered January 1, 2003.

~~Rule 1280 [Renumbered 1987]~~

~~Rule 1280.5.600. Purpose, authority, and definitions~~

~~Rule 1280.15.605. Hearing of matters by a judge under Family Code sections 4251(a) and 4252(b)(7)~~

~~Rule 1280.25.610. Use of existing family law forms~~

~~Rule 1280.35.615. Memorandum of points and authorities~~

~~Rule 1280.45.620. State Bar number and local child support agency district attorney name Attorney of record in support actions under Title IV-D of the Social Security Act~~

~~Rule 1280.55.625. Procedures for clerk's handling of combined summons and complaint~~

~~Rule 1280.65.630. Procedures for child support case registry form~~

~~Rule 1280.75.635. Procedures for hearings on interstate income withholding orders~~

~~Rule 1280.85.640. Judicial education for child support commissioners~~

~~Rule 1280.9. References in forms to conform to Family Code Division 17.~~

~~Rule 1280.105.650. Procedures for hearings to set aside voluntary declarations of paternity when no previous action has been filed~~

~~Rule 1280.115.655. Minimum standards of training for court clerk staff whose assignment includes Title IV-D child support cases~~

~~Rule 1280.125.660. Appearance by local child support agency~~

~~Rule 1280.135.665. Procedure for consolidation of child support orders~~

~~Rule 1280.145.670. Party designation in interstate and intrastate cases~~

1 **~~Rule 1280.155.675.~~ Procedure for a support obligor to file a motion regarding**
2 **~~mistaken identity~~**

3
4 **~~Rule 1280. [Renumbered 1987 and again in 2002]~~**

5
6 *~~Rule 1280 adopted effective January 1, 1985. Amended effective July 1, 1985, and January 1,~~*
7 *~~1986. Renumbered rule 982.9, effective July 1, 1987.~~*
8

9 **~~Rule 1280~~5.600. Purpose, authority, and definitions**

10
11 (a) **[Purpose]** The rules in this chapter are adopted to provide practice and
12 procedure for support actions under Title IV-D of the Social Security Act and
13 under California statutory provisions concerning these actions.
14

15 (b) **[Authority]** These rules are adopted ~~pursuant to~~ under article VI, section 6 of
16 the California Constitution ~~and~~; Family Code sections 211, 3680(b), 4251(a),
17 4252(b), ~~and 10010; and Welfare and Institutions Code sections 11350.1(g),~~
18 ~~11356(d), and 11475.1(e).~~, 17404, 17432, and 17400.
19

20 *(Subd (b) amended effective January 1, 2003.)*
21

22 (c) **[Definitions]** As used in these rules, unless the context requires otherwise,
23 “Title IV-D support action” refers to an action for child or family support that
24 is brought by or otherwise involves the ~~district attorney~~ local child support
25 agency pursuant to under Title IV-D of the Social Security Act.
26

27 *(Subd (c) amended effective January 1, 2003.)*
28

29 *Rule ~~1280~~5.600 amended and renumbered effective January 1, 2003; adopted as rule 1280*
30 *adopted effective July 1, 1997.*
31

32 **~~Rule 1280.15.605.~~ Hearing of matters by a judge under Family Code sections 4251(a)**
33 **~~and 4252(b)(7)~~**

34
35 (a) **[Exceptional circumstances]** The exceptional circumstances under which a
36 judge may hear a Title IV-D support action include:
37

38 (1) The failure of the judge to hear the action would result in significant
39 prejudice or delay to a party including, but not limited to, added cost or
40 loss of work time.
41

42 (2) Transferring the matter to a commissioner would result in undue
43 consumption of court time.

- 1
- 2 (3) Physical impossibility or difficulty due to the commissioner being
- 3 geographically separate from the judge presently hearing the matter.
- 4
- 5 (4) The absence of the commissioner from the county due to illness,
- 6 disability, death, or vacation.
- 7
- 8 (5) The absence of the commissioner from the county due to service in
- 9 another county and the difficulty of travel to the county in which the
- 10 matter is pending.
- 11

12 (b) **[Duty of judge hearing matter]** A judge hearing a Title IV-D support action

13 ~~pursuant to~~ under this rule and Family Code sections 4251(a) and 4252(b)(7)

14 ~~shall~~must make an interim order and refer the matter to the commissioner for

15 further proceedings.

16

17 *(Subd (b) amended effective January 1, 2003.)*

18

19 (c) **[Discretion of the court]** Notwithstanding sections (a) and (b) of this rule, a

20 judge may, in the interests of justice, transfer a case to a commissioner for

21 hearing.

22

23 *Rule ~~1280.1~~ 5.605 amended and renumbered effective January 1, 2003; adopted as rule 1280.1*

24 *effective July 1, 1997.*

25

26 **Rule ~~1280.25~~ 6.10. Use of existing family law forms**

27

28 When an existing family law form is required or appropriate for use in a Title IV-D

29 support action, the form may be used notwithstanding the absence of a notation for

30 the other parent as a party ~~pursuant to~~ under ~~Welfare and Institutions~~ Family Code

31 ~~section 11350.1(e)~~ 17404. The caption of the form ~~shall~~must be modified by the

32 person filing it by adding the words “Other parent:” and the name of the other parent

33 to the form.

34

35 *Rule ~~1280.2~~ 5.610 amended and renumbered effective January 1, 2003; adopted as rule 1280.2*

36 *effective July 1, 1997.*

37

38 **Rule ~~1280.35~~ 6.15. Memorandum of points and authorities**

39

40 Notwithstanding any other rule, including rule 313, a notice of motion in a Title IV-

41 D support action ~~shall~~must not be required to contain points and authorities if the

42 notice of motion uses a form adopted or approved by the Judicial Council. The

43 absence of points and authorities under these circumstances ~~shall~~may not be

1 construed by the court as an admission that the motion is not meritorious and cause
2 for its denial.

3
4 *Rule ~~1280.3~~ 5.615 amended and renumbered effective January 1, 2003; adopted as rule 1280.3*
5 *effective July 1, 1997.*
6

7 **Rule ~~1280.45.620~~. Attorney of Record in support actions under Title IV-D of the**
8 **Social Security Act**
9

10 The attorney of record on behalf of a local child support agency appearing in any
11 action under Title IV-D of the Social Security Act ~~shall be the district attorney of~~
12 ~~the county if that agency is under the supervision of the district attorney. If the local~~
13 ~~child support agency is not under the supervision of the district attorney, the~~
14 ~~attorney of record shall be~~ is the director of the local child support agency, or if the
15 director of that agency is not an attorney, the senior attorney of that agency or an
16 attorney designated by the director for that purpose. Notwithstanding any other rule,
17 including but not limited to rule 201(e), the name, address, and telephone number of
18 the county child support agency and the name of the attorney of record ~~shall~~ is be
19 sufficient for any papers filed by the child support agency. The name of the deputy
20 or assistant district attorney or attorney of the child support agency, who is not
21 attorney of record, and the State Bar number of the attorney of record or any of his
22 or her assistants ~~shall~~ is not be required.
23

24 *Rule ~~1280.45.620~~ amended and renumbered effective January 1, 2003; adopted as rule 1280.4*
25 *effective July 1, 1997; previously amended effective January 1, 2001.*
26

27 **Rule ~~1280.55.625~~. Procedures for clerk's handling of combined summons and**
28 **complaint**
29

30 (a) [Purpose] This rule provides guidance to court clerks in processing and filing
31 the Judicial Council combined form *Summons and Complaint or Supplemental*
32 *Complaint Regarding Parental Obligations (Governmental)* (form ~~1299.01FL-~~
33 ~~600~~) for actions brought under ~~Welfare and Institutions~~ Family Code section
34 ~~11475.1 17400~~ or ~~11350.117404~~.
35

36 *(Subd (a) amended effective January 1, 2003.)*
37

38 (b) [Filing of complaint and issuance of summons] The clerk ~~shall~~ must accept the
39 *Summons and Complaint or Supplemental Complaint Regarding Parental*
40 *Obligations (Governmental)* (form ~~1299.01FL-~~600) for filing under Code of
41 Civil Procedure section 411.10. The clerk ~~shall~~ must issue the original
42 summons in accordance with Code of Civil Procedure section 412.20 by filing

1 the original form ~~1299.01~~ FL-600 and affixing the seal of the court. The
2 original form ~~1299.01~~ FL-600 ~~shall~~must be retained in the court's file.

3
4 *(Subd (b) amended effective January 1, 2003.)*
5

- 6 (c) **[Issuance of copies of combined summons and complaint]** Upon issuance of
7 the original summons, the clerk ~~shall~~must conform copies of the filed form
8 ~~1299.01~~ FL-600 to reflect that the complaint has been filed and the summons
9 has been issued. A copy of ~~the form 1299.01~~ FL-600 so conformed ~~shall~~must
10 be served on the defendant in accordance with Code of Civil Procedure section
11 415.10 et seq.
12

13 *(Subd (c) amended effective January 1, 2003.)*
14

- 15 (d) **[Proof of service of summons]** Proof of service of the *Summons and*
16 *Complaint or Supplemental Complaint Regarding Parental Obligations*
17 *(Governmental)* (form ~~1299.01~~FL-600) ~~shall~~must be on the form prescribed by
18 ~~rule 982(a)(23)~~ 982.9 or any other proof of service form that meets the
19 requirements of Code of Civil Procedure section 417.10.
20

21 *(Subd (d) amended effective January 1, 2003.)*
22

- 23 (e) **[Filing of proposed judgment and amended proposed judgment]** The proposed
24 judgment ~~shall~~must be an attachment to the form ~~1299.01~~FL-600 *Summons and*
25 *Complaint or Supplemental Complaint Regarding Parental Obligations*
26 *(Governmental)* and ~~shall~~must not be file-endorsed separately. An amended
27 proposed judgment submitted for filing ~~shall~~must be attached to the declaration
28 for amended proposed judgment ~~rescribed by rule 1299.17~~ per form FL-616, as
29 required by ~~Welfare and Institutions~~ Family Code section ~~41355(e)~~ 17430(c), and
30 a proof of service by mail, if appropriate. Upon filing, the declaration for
31 amended proposed judgment ~~shall~~may be file-endorsed. The amended proposed
32 judgment ~~shall~~must not be file-endorsed.
33

34 *(Subd (e) amended effective January 1, 2003.)*
35

36 *Rule ~~1280.5~~ 5.625 amended and renumbered effective January 1, 2003; adopted as rule 1280.5*
37 *effective July 1, 1998.*
38

39 **Rule ~~1280.65~~ 630. Procedures for child support case registry form**
40

- 41 (a) **[Purpose]** This rule provides guidance to court clerks in processing the Judicial
42 Council *Child Support Case Registry Form (Family Law)* (~~F~~form ~~1285.92~~FL-
43 191).
44

1 (Subd (a) amended effective January 1, 2003.)

- 2
- 3 (b) **[Application]** This rule applies to any action or proceeding in which there is an
- 4 order for child support or family support except for cases in which the ~~district~~
- 5 ~~attorney~~ local child support agency provides support enforcement services
- 6 ~~pursuant to under Welfare and Institutions Family Code section 11475.117400.~~
- 7 This rule does not apply to cases in which the ~~district attorney~~ local child
- 8 support agency provides support enforcement services ~~pursuant to~~
- 9 ~~under Welfare and Institutions Family Code section 11475.117400.~~

10

11 (Subd (b) amended effective January 1, 2003.)

- 12
- 13 (c) **[Requirement that form be filed]** The court ~~shall~~ must require that a *Child*
- 14 *Support Case Registry Form (Family Law)* (~~1285.92F~~ form FL-191), completed
- 15 by one of the parties, be filed each time an initial court order for child support
- 16 or family support or a modification of a court order for child support or family
- 17 support is filed with the court. A party attempting to file an initial judgment or
- 18 order for child support or family support or a modification of an order for child
- 19 or family support without a completed *Child Support Case Registry Form*
- 20 *(Family Law)* (~~Form 1285.92~~ form FL-191), must be given a blank form to
- 21 complete. The form ~~shall~~ must be accepted if legibly handwritten in ink or
- 22 typed. No filing fees ~~shall~~ may be charged for filing the form.

23

24 (Subd (c) amended effective January 1, 2003.)

- 25
- 26 (d) **[Distribution of the form]** Copies of the *Child Support Case Registry Form*
- 27 *(Family Law)* (~~Form 1285.92~~ form FL-191) ~~shall~~ must be made available by the
- 28 clerk's office and the family law facilitator's office to the parties without cost.
- 29 A blank copy of the *Child Support Case Registry Form (Family Law)* (~~Form~~
- 30 ~~1285.92~~ form FL-191) ~~shall~~ must be sent with the notice of entry of judgment to
- 31 the party who did not submit the judgment or order.

32

33 (Subd (d) amended effective January 1, 2003.)

- 34
- 35 (e) **[Items on form that must be completed]** A form ~~shall~~ must be considered
- 36 complete if items 1b, 1c, 2, 5, and 6 are completed. Either item 3 or item 4
- 37 must also be completed as appropriate. If the form is submitted with the
- 38 judgment or order for court approval, the clerk ~~shall~~ must complete item 1a
- 39 once the judgment or order has been signed by the judicial officer and filed.

40

41 (Subd (e) amended effective January 1, 2003.)

42

- 1 (f) **[Clerk handling of form]** The completed *Child Support Case Registry Form*
2 (*Family Law*) (~~Form 1285.92~~ form FL-191) ~~shall~~must not be stored in the
3 court's file. It should be date and time stamped when received and stored in an
4 area to which the public does not have access. At least once per month all
5 forms received ~~shall~~must be mailed to the California Department of Social
6 Services.

7
8 *(Subd (f) amended effective January 1, 2003.)*
9

- 10 (g) **[Storage of confidential information]** Provided that all information is kept
11 confidential, the court may keep either a copy of the form or the information
12 provided on the form in an electronic format.
13

14 *Rule 1280.6 5.630 amended and renumbered effective January 1, 2003; adopted as rule effective*
15 *July 1, 1999.*
16

17 **Rule ~~1280.75~~635. Procedures for hearings on interstate income withholding orders**
18

- 19 (a) **[Purpose]** This rule provides a procedure for a hearing ~~pursuant to~~ under
20 Family Code section 4945 in response to an income withholding order.
21
22 (b) **[Filing of request for hearing]** A support obligor may contest the validity or
23 enforcement of an income withholding order by filing a completed request for
24 hearing. A copy of the income withholding order must be attached.
25
26 (c) **[Filing fee]** The court ~~shall~~must not require a filing fee to file the request for
27 hearing under this rule.
28

29 *(Subd (c) amended effective January 1, 2003.)*
30

- 31 (d) **[Creation of court file]** Upon receipt of the completed request for hearing and
32 a copy of the income withholding order, the clerk ~~shall~~must assign a case
33 number and schedule a court date. The court date ~~shall~~must be no earlier than
34 30 days from the date of filing and no later than 45 days from the date of filing.
35

36 *(Subd (d) amended effective January 1, 2003.)*
37

- 38 (e) **[Notice of hearing]** The support obligor ~~shall~~must provide the clerk with
39 envelopes addressed to the obligor, the support enforcement agency that sent
40 the income withholding order, and the obligor's employer. The support obligor
41 ~~shall~~must also provide an envelope addressed to the person or agency
42 designated to receive the support payments if that person or agency is different
43 than the support enforcement agency that sent the income withholding order.

1 The support obligor ~~shall~~must provide sufficient postage to mail each envelope
2 provided. Upon scheduling the hearing, the clerk ~~shall~~must mail a copy of the
3 request for hearing in each envelope provided by the support obligor.
4

5 *(Subd (e) amended effective January 1, 2003.)*
6

7 **(f) [Use of court file in subsequent proceedings]** Any subsequent proceedings
8 filed in the same court that involve the same parties and are filed ~~pursuant~~
9 ~~to~~under the Uniform Interstate Family Support Act (UIFSA) ~~shall~~must utilize
10 the file number created under this rule.
11

12 *(Subd (f) amended effective January 1, 2003.)*
13

14 **(g) [Definitions]** As used in this rule:
15

16 (1) An “income withholding order” is the ~~Interstate~~ *Order/Notice to Withhold*
17 *Income for Child Support* (see form FL-195) issued by a child support
18 enforcement agency in another state.
19

20 (2) A “request for hearing” is the *Request for Hearing Regarding Wage and*
21 *Earnings Assignment (Family Law—Governmental—UIFSA)* ~~(Form~~
22 ~~1299.28~~see form FL-450).
23

24 *(Subd (g) amended effective January 1, 2003.)*
25

26 *Rule ~~1280.7~~ 5.635 amended and renumbered effective January 1, 2003; adopted as rule 1280.7*
27 *effective July 1, 1999.*
28

29 **Rule ~~1280.85.640~~ 5.640. Judicial education for child support commissioners**
30

31 Every commissioner whose principal judicial assignment is to hear child support
32 matters ~~shall~~must attend the following judicial education programs:
33

34 **(a) [Basic child support law education]** Within six months of beginning an
35 assignment as a child support commissioner, the judicial officer ~~shall~~must
36 attend a basic educational program on California child support law and
37 procedure designed primarily for judicial officers. The training program
38 ~~shall~~must include instruction on both state and federal laws concerning child
39 support. A judicial officer who has completed the basic educational program
40 need not attend the basic educational program again.
41

42 *(Subd (a) amended effective January 1, 2003.)*
43

1 (b) **[Continuing education]** The judicial officer ~~shall~~must attend an update on new
2 developments in child support law and procedure at least once each calendar
3 year.
4

5 *(Subd (b) amended effective January 1, 2003.)*
6

7 (c) **[Other child support education]** To the extent that judicial time and resources
8 are available, the judicial officer is encouraged to attend additional educational
9 programs on child support and other related family law issues.
10

11 (d) **[Other judicial education]** The requirements of this rule are in addition to and
12 not in lieu of the requirements of rule 970(e).
13

14 *Rule 1280.8 5. 640 amended and renumbered effective January 1, 2003; adopted as rule 1280.8*
15 *effective July 1, 1999.*
16

17 **~~Rule 1280.9. References in forms to conform to Family Code Division 17.~~**
18

19 ~~(a) **[Reference to district attorney]** Any reference to “district attorney” or~~
20 ~~“governmental agency” in any adopted or approved Judicial Council form~~
21 ~~concerning child, spousal, or family support, shall be deemed to include as~~
22 ~~appropriate the county department of child support services required to be~~
23 ~~established by Family Code section 17304.~~
24

25 ~~(b) **[Reference to Welfare and Institutions Code sections]** Any reference made to~~
26 ~~any Welfare and Institutions Code section repealed by Statutes 1999, Chapters~~
27 ~~478 and 480 in any adopted or approved Judicial Council form, shall be~~
28 ~~deemed to refer as appropriate to the corresponding section of the Family Code~~
29 ~~as follows:~~
30

31 ~~Welfare & Institutions Code~~ ~~_____~~ ~~Family Code~~

32 ~~W&I 11350~~ ~~_____~~ ~~FC 17402~~

33 ~~W&I 11350.1~~ ~~_____~~ ~~FC 17404~~

34 ~~W&I 11350.1(f)~~ ~~_____~~ ~~FC 17404(f)~~

35 ~~W&I 11350.6~~ ~~_____~~ ~~FC 17520~~

36 ~~W&I 11350.8~~ ~~_____~~ ~~FC 17526~~

37 ~~W&I 11352~~ ~~_____~~ ~~FC 17428~~

38 ~~W&I 11355~~ ~~_____~~ ~~FC 17430~~

W&I 11355(e) FC 17430(e)

W&I 11355(d) FC 17430(d)

W&I 11356 FC 17432

W&I 11475.1 FC 17400

W&I 11478.2 FC 17406

Rule 1280.9 adopted effective January 1, 2000.

Rule 1280.105.650. Procedures for hearings to set aside voluntary declarations of paternity when no previous action has been filed

- (a) **[Purpose]** This rule provides a procedure for a hearing to set aside a voluntary declaration of paternity under Family Code section 7575(c).
- (b) **[Filing of request for hearing]** A person who has signed a voluntary declaration of paternity may ask that the declaration be set aside by filing a completed *Request for Hearing and Application to Set Aside Voluntary Declaration of Paternity* (~~Form 1296.77~~ form FL-280).

(subd (b) amended effective January 1, 2003.)

- (c) **[Creation of court file]** Upon receipt of the completed request for hearing, the clerk ~~shall~~ must assign a case number and schedule a court date. The court date ~~shall~~ must be no earlier than 31 days after the date of filing and no later than 45 days after the date of filing.

(subd (c) amended effective January 1, 2003.)

- (d) **[Notice of hearing]** The person who is asking that the voluntary declaration of paternity be set aside ~~shall~~ must serve, either by personal service or by mail, the request for hearing and a blank *Responsive Declaration to Application to Set Aside Voluntary Declaration of Paternity* (~~Form 1296.78~~ form FL-285) on the other person who signed the voluntary declaration of paternity. If the local child support agency is providing services in the case, the person requesting the set aside ~~shall~~ must also serve a copy of the request for hearing on the agency.

(subd (d) amended effective January 1, 2003.)

- (e) **[Order after hearing]** The decision of the court ~~shall~~ must be written on the *Order After Hearing on Motion to Set Aside Voluntary Declaration of*

1 *Paternity* (~~Form 1276.79~~ form FL-290). If the voluntary declaration of paternity
2 is set aside, the clerk ~~shall~~must mail a copy of the order to the Department of
3 Child Support Services in order that the voluntary declaration of paternity be
4 purged from the records.

5
6 *(subd (e) amended effective January 1, 2003.)*
7

8 **(f) [Use of court file in subsequent proceedings]** Pleadings in any subsequent
9 proceedings, including but not limited to proceedings under the Uniform
10 Parentage Act, that involve the parties and child named in the voluntary
11 declaration of paternity ~~shall~~must be filed in the court file that was initiated by
12 the filing of the *Request for Hearing and Application to Set Aside Voluntary*
13 *Declaration of Paternity* (form FL-280).
14

15 *(subd (f) amended effective January 1, 2003.)*
16

17 *Rule ~~1280.10~~ 5.650 amended and renumbered effective January 1, 2003; adopted as rule*
18 *1280.10 effective July 1, 2000.*
19

20 **Rule ~~1280.11~~ 5.655. Minimum standards of training for court clerk staff whose**
21 **assignment includes Title IV-D child support cases**
22

23 Any court clerk whose assignment includes Title IV-D child support cases ~~shall~~must
24 participate in a minimum of six hours of continuing education annually in federal
25 and state laws concerning child support and related issues.
26

27 *Rule ~~1280.11~~ 5.655 amended and renumbered effective January 1, 2003; adopted as rule*
28 *1280.11 effective July 1, 2000.*
29

30 **Rule ~~1280.12~~ 5.660. Appearance by local child support agency**
31

32 When a local child support agency is providing services as required by Family Code
33 section 17400, that agency may appear in any action or proceeding that it did not
34 initiate by giving written notice to all parties, on the form titled *Notice Regarding*
35 *Payment of Support* (~~Form 1299.55~~ FL-632), that it is providing services in that
36 action or proceeding under Title IV-D of the Social Security Act. The agency
37 ~~shall~~must file the original of the notice in the action or proceeding with proof of
38 service by mail on the parties. Upon service and filing of the notice, the court
39 ~~shall~~must not require the local child support agency to file any other notice or
40 pleading before that agency appears in the action or proceeding.
41

42 *Rule ~~1280.12~~ 5.660 amended and renumbered effective January 1, 2003; adopted as rule*
43 *1280.12 effective January 1, 2001.*
44

1 **Rule ~~1280.135.665~~. Procedure for consolidation of child support orders**

2
3 **(a)** When an order of consolidation of actions has been made under section
4 1048(a) of the Code of Civil Procedure in cases in which a local child support
5 agency is appearing under section 17400 of the Family Code, or when a motion
6 to consolidate or combine two or more child support orders has been made
7 under section 17408 of the Family Code, the cases in which those orders were
8 entered ~~shall~~must be consolidated as follows:
9

10 (1) **[Priority of consolidation]** The order consolidating cases that contain
11 child support orders ~~shall~~must designate the primary court file into which
12 the support orders ~~shall~~must be consolidated and ~~shall~~must also designate
13 the court files that are subordinate. Absent an order upon showing of good
14 cause, the cases or child support orders ~~shall~~must be consolidated into a
15 single court file according to the following priority, including those cases
16 or orders initiated or obtained by a local child support agency under
17 division 17 of the Family Code that are consolidated under either section
18 1048(a) of the Code of Civil Procedure or section 17408 of the Family
19 Code.
20

21 (i) If one of the cases or child support orders to be consolidated is in an
22 action for nullity, dissolution, or legal separation brought under
23 division 6 of the Family Code, all cases and orders so consolidated
24 ~~shall~~must be consolidated into that action, which ~~shall~~must be the
25 primary file.
26

27 (ii) If none of the cases or child support orders to be consolidated is in an
28 action for nullity, dissolution, or legal separation, but one of the child
29 support orders to be consolidated has been issued in an action under
30 the Uniform Parentage Act (Fam. Code, div. 12, pt. 3), all orders so
31 consolidated ~~shall~~must be consolidated into that action, which
32 ~~shall~~must be the primary file.
33

34 (iii) If none of the cases or child support orders to be consolidated is in an
35 action for nullity, dissolution, or legal separation or in an action under
36 the Uniform Parentage Act, but one of the child support orders to be
37 consolidated has been issued in an action commenced by a *Petition for*
38 *Custody and Support of Minor Children* (~~Form 1296.80~~form FL-260),
39 all orders so consolidated ~~shall~~must be consolidated into that action,
40 which ~~shall~~must be the primary file.
41

- 1 (iv) If none of the cases or child support orders to be consolidated is in an
2 action for nullity, dissolution, or legal separation or in an action under
3 the Uniform Parentage Act, the case or cases with the higher number
4 or numbers ~~shall~~must be consolidated into the case with the lowest
5 number, which ~~shall~~must be the primary file. Child support orders in
6 cases brought under the Domestic Violence Protection Act (Fam.
7 Code, div. 10, pt. 4) or any similar law may be consolidated under this
8 rule. However, a domestic violence case ~~shall~~must not be designated
9 as the primary file.

10
11 *(Subd (a) amended effective January 1, 2003.)*
12

- 13 (2) **[Notice of consolidation]** Upon issuance of the consolidation order, the
14 local child support agency ~~shall~~must prepare and file in each subordinate
15 case a *Notice of Consolidation* (~~Form 1299.77~~form FL-920), indicating
16 that the support orders in those actions are consolidated into the primary
17 file. The notice ~~shall~~must state the date of the consolidation, the primary
18 file number, and the case number of each of the cases so consolidated. If
19 the local child support agency was not a participant in the proceeding in
20 which the consolidation was ordered, the court ~~shall~~ designate the party to
21 prepare and file the notice.
22

23 *(Subd (b) amended effective January 1, 2003.)*
24

- 25 (b) **[Subsequent filings in consolidated cases]** Notwithstanding any other rule,
26 including but not limited to rule 367, upon consolidation of cases with child
27 support orders, all filings in those cases, whether dealing with child support or
28 not, ~~shall~~must occur in the primary court action and ~~shall~~must be filed under
29 that case, caption, and number only. All further orders ~~shall~~must be issued
30 only in the primary action, and no further orders ~~shall~~may be issued in a
31 subordinate court file. All enforcement and modification of support orders in
32 consolidated cases ~~shall~~must occur in the primary court action regardless in
33 which action the order originally issued.
34

35 *(Subd (c) amended effective January 1, 2003.)*
36

37 *Rule ~~1280.13~~ 5.665 amended and renumbered effective January 1, 2003; adopted as rule*
38 *1280.13 effective January 1, 2001.*
39

40 **Rule ~~1280.14~~5.670. Party designation in interstate and intrastate cases**
41

42 When a support action that has been initiated in another county or another state is
43 filed, transferred, or registered in a superior court of this state under the Uniform

1 Interstate Family Support Act (Fam. Code, div. 9, pt. 5, ch. 6, commencing with §
2 4900), the intercounty support enforcement provisions of the Family Code (div. 9,
3 pt. 5, ch. 8, art. 9, commencing with § 5600), or any similar law, the party
4 designations in the caption of the action in the responding court ~~shall~~must be as
5 follows:
6

7 **(a) [New actions initiated under the Uniform Interstate Family Support Act]**

8 The party designation in the superior court of this state, responding to new
9 actions initiated under the Uniform Interstate Family Support Act (Fam. Code,
10 div. 9, pt. 5, ch. 6, commencing with § 4900), ~~shall~~must be the party
11 designation that appears on the first page of the Uniform Support Petition
12 (OMB No. 0970-0085) in the action.
13

14 *(Subd (a) amended effective January 1, 2003.)*
15

16 **(b) [Registered orders under the Uniform Interstate Family Support Act or**
17 **state law]** The party designation in all support actions registered for
18 enforcement or modification ~~shall~~must be the one that appears in the original
19 (earliest) order being registered.
20

21 *(Subd (b) amended effective January 1, 2003.)*
22

23 *Rule ~~1280.14~~ 5.670 amended and renumbered effective January 1, 2003; adopted as rule*
24 *~~1280.14~~ effective January 1, 2001.*
25

26 **Rule ~~1280.15~~5.675. Procedure for a support obligor to file a motion regarding**
27 **mistaken identity**
28

29 **(a) [Purpose]** This rule applies to a support obligor who claims that support
30 enforcement actions have erroneously been taken against him or her by the
31 local child support agency because of a mistake in the support obligor's
32 identity. This rule sets forth the procedure for filing a motion in superior court
33 to establish the mistaken identity ~~pursuant to~~ under Family Code section 17530
34 after the support obligor has filed a claim of mistaken identity with the local
35 child support agency and the claim has been denied.
36

37 **(b) [Procedure for filing motion in superior court]** The support obligor's motion
38 in superior court to establish mistaken identity ~~shall~~must be filed on ~~Form~~
39 ~~1285.10~~form FL-310, *Notice of Motion (Family Law)*, with appropriate
40 attachments. The support obligor ~~shall~~must also file as exhibits to the notice of
41 motion a copy of the claim of mistaken identity that he or she filed with the
42 local child support agency and a copy of the local child support agency's
43 denial of the claim.

1
2 *(Subd (b) amended effective January 1, 2003.)*

3
4 *Rule ~~1280.15~~ 5.675 amended and renumbered effective January 1, 2003; adopted as rule*
5 *1280.15 effective January 1, 2001.*

6
7 **Chapter 10. Miscellaneous Rules**

8
9 Title Five, Special Rules for Trial Courts—Division Ia, Family Law Rules—Chapter 10,
10 General Miscellaneous Rules.

11
12 Rule ~~11805.1000~~ 5.1000 Postadoption contact agreement

13
14 (a) **[Applicability of rule (Fam. Code, §§ 8714, 8714.5, 8714.7; Welf. & Inst.**
15 **Code, §§ 358.1, 366.26)]** This rule applies to any adoption of a child. The
16 adoption petition must be filed under Family Code sections 8714 and 8714.5.
17 If the child is a dependent of the juvenile court, the adoption petition may be
18 filed in that juvenile court and the clerk must open a confidential adoption file
19 for the child, and this file must be separate and apart from the dependency file,
20 with an adoption case number different from the dependency case number. For
21 the purposes of this rule, a “relative” is defined as follows:

- 22
23 (1) An adult related to the child or the child’s sibling or half-sibling by blood
24 or affinity, including a relative whose status is preceded by the word
25 “step,” “great,” “great-great” or “grand”; or
26
27 (2) The spouse of any of the persons described in subdivision (a)(1) even if
28 the marriage was terminated by dissolution or the death of the spouse
29 related to the child.

30
31 *(Subd (a) amended effective July 1, 2001.)*

32
33 (b) **[Agreement for postadoption contact (Fam. Code, § 8714.7)]** An adoptive
34 parent or parents, a birth relative or relatives, including a birth parent or
35 parents of a child who is the subject of an adoption petition, and the child may
36 enter into a written agreement permitting postadoption contact between the
37 child and birth relatives. No prospective adoptive parent or birth relative may
38 be required by court order to enter into a postadoption contact agreement.

39
40 *(Subd (b) amended effective January 1, 2003; previous amended effective July 1, 2001.)*
41

1 (c) **[Court approval; time of decree (Fam. Code, § 8714.7)]** If, at the time the
2 adoption petition is granted, the court finds that the agreement is in the best
3 interests of the child, the court may enter the decree of adoption and grant
4 postadoption contact as reflected in the approved agreement.
5

6 (d) **[Terms of agreement (Fam. Code, § 8714.7)]** The terms of the agreement are
7 limited to the following, although they need not include all permitted terms:
8

- 9 (1) Provisions for visitation between the child and a birth parent or parents;
10
11 (2) Provisions for visitation between the child and other identified birth
12 relatives, including siblings or half-siblings of the child;
13
14 (3) Provisions for contact between the child and a birth parent or parents;
15
16 (4) Provisions for contact between the child and other identified birth
17 relatives, including siblings or half-siblings of the child;
18
19 (5) Provisions for contact between the adoptive parent or parents and a birth
20 parent or parents;
21
22 (6) Provisions for contact between the adoptive parent or parents and other
23 identified birth relatives, including siblings or half-siblings of the child;
24
25 (7) Provisions for the sharing of information about the child with a birth
26 parent or parents;
27
28 (8) Provisions for the sharing of information about the child with other
29 identified birth relatives, including siblings or half-siblings of the child;
30
31 (9) The terms of any postadoption contact agreement entered into under a
32 petition filed under Family Code section 8714 must be limited to the
33 sharing of information about the child unless the child has an existing
34 relationship with the birth relative.
35

36 *(Subd (d) amended effective July 1, 2001.)*
37

38 (e) **[Child a party (Fam. Code, § 8714.7)]** The child who is the subject of the
39 adoption petition is a party to the agreement whether or not specified as such.
40

- 41 (1) Written consent by a child 12 years of age or older to the terms of the
42 agreement is required for enforcement of the agreement, unless the court

1 finds by a preponderance of the evidence that the agreement is in the best
2 interest of the child and waives the requirement of the child's written
3 consent.
4

- 5 (2) If the child has been found by a juvenile court to be described by section
6 300 of the Welfare and Institutions Code, an attorney must be appointed
7 to represent the child for purposes of participation in and consent to any
8 postadoption contact agreement, regardless of the age of the child. If the
9 child has been represented by an attorney in the dependency proceedings,
10 that attorney must be appointed for the additional responsibilities of this
11 rule. The attorney is required to represent the child only until the adoption
12 is decreed and dependency terminated.
13

14 (*Subd (e) amended effective July 1, 2001.*)
15

- 16 (f) **[Form and provisions of the agreement (Fam. Code, § 8714.7)]** The
17 agreement must be prepared and submitted on Judicial Council form
18 *Postadoption Contact Agreement* (ADOPT-310) with appropriate attachments.
19

20 (*Subd (f) amended effective July 1, 2001.*)
21

- 22 (g) **[Report to the court (Fam. Code, § 8715)]** The department or agency
23 participating as a party or joining in the petition for adoption must submit a
24 report to the court. The report must include a criminal record check and
25 descriptions of all social service referrals. If a postadoption contact agreement
26 has been submitted, the report must include a summary of the agreement and a
27 recommendation as to whether it is in the best interest of the child.
28

29 (*Subd (g) amended effective July 1, 2001.*)
30

- 31 (h) **[Enforcement of the agreement (Fam. Code, § 8714.7)]** The court that grants
32 the petition for adoption and approves the postadoption contact agreement
33 must retain jurisdiction over the agreement.
34

- 35 (1) Any petition for enforcement of an agreement must be filed on Judicial
36 Council form *Petition for Enforcement, Modification, or Termination of*
37 *Postadoption Contact Agreement* (ADOPT-315). The form must not be
38 accepted for filing unless completed in full, with documentary evidence
39 attached of participation in, or attempts to participate in, mediation or
40 other dispute resolution.
41
42 (2) The court may make its determination on the petition without testimony
43 or an evidentiary hearing and may rely solely on documentary evidence or

1 offers of proof. The court may order compliance with the agreement only
2 if:

3
4 (A) There is sufficient evidence of good-faith attempts to resolve the
5 issues through mediation or other dispute resolution; and

6
7 (B) The court finds enforcement is in the best interests of the child.
8

9 (3) The court must not order investigation or evaluation of the issues raised in
10 the petition unless the court finds by clear and convincing evidence that:

11
12 (A) The best interests of the child may be protected or advanced only by
13 such inquiry; and

14
15 (B) The inquiry will not disturb the stability of the child's home to the
16 child's detriment.

17
18 (4) Monetary damages must not be ordered.
19

20 *(Subd (h) amended effective July 1, 2001.)*
21

22 (i) **[Modification or termination of agreement (Fam. Code, § 8714.7)]** The
23 agreement may be modified or terminated by the court. Any petition for
24 modification or termination of an agreement must be filed on Judicial Council
25 form *Petition for Enforcement, Modification, or Termination of Postadoption*
26 *Contact Agreement* (ADOPT–315). The form must not be accepted for filing
27 unless completed in full, with documentary evidence attached of participation
28 in, or attempts to participate in, mediation or other appropriate dispute
29 resolution.
30

31 (1) The agreement may be terminated or modified only if:
32

33 (A) All parties, including the child of 12 years or older, have signed the
34 petition or have indicated on the Judicial Council form *Response to*
35 *Petition for Enforcement, Modification, or Termination of*
36 *Postadoption Contact Agreement* (ADOPT–320) their consent or
37 have executed a modified agreement filed with the petition; or

38
39 (B) The court finds all of the following:
40

41 (i) The termination or modification is necessary to serve the best
42 interests of the child;

(ii) There has been a substantial change of circumstances since the original agreement was approved; and

(iii) The petitioner has participated in, or has attempted to participate in, mediation or appropriate dispute resolution.

(2) The court may make its determination without testimony or evidentiary hearing and may rely solely on documentary evidence or offers of proof.

(3) The court may order modification or termination without a hearing if all parties, including the child of 12 years or older, have signed the petition or have indicated on the Judicial Council form *Response to Petition for Enforcement, Modification, or Termination of Postadoption Contact Agreement* (ADOPT–320) their consent or have executed a modified agreement filed with the petition.

(Subd (i) amended effective July 1, 2001.)

(j) [Costs and fees (Fam. Code, § 8714.7)] The fee for filing a *Petition for Enforcement, Modification, or Termination of Postadoption Contact Agreement* (ADOPT–315) must not exceed the fee assessed for the filing of an adoption petition. Costs and fees for mediation or other appropriate dispute resolution must be assumed by each party, with the exception of the child. All costs and fees of litigation, including any court-ordered investigation or evaluation, must be charged to the petitioner unless the court finds that a party other than the child has failed, without good cause, to comply with the approved agreement; all costs and fees must then be charged to that party.

(Subd (j) amended effective July 1, 2001.)

(k) [Adoption final (Fam. Code, § 8714.7)] Once a decree of adoption has been entered, the court may not set aside the decree, rescind any relinquishment, modify or set aside any order terminating parental rights, or modify or set aside any other orders related to the granting of the adoption petition, due to the failure of any party to comply with the terms of a postadoption contact agreement or any subsequent modifications to it.

(Subd (k) amended effective July 1, 2001.)

Rule 5.1000 amended and renumbered effective January 1, 2003; adopted as rule 1180 effective July 1, 1998; previously amended July 1, 2001.

1 **TITLE FIVE. Special Rules for Trial Courts**

2 Adopted as Title Four effective January 1, 1970; renumbered effective July 1, 1993.

3 **DIVISION I. Rules Pertaining to Proceedings Involving Children and Families**

4 Adopted effective July 1, 1998.

5 **DIVISION Ia. Family Law Rules**

6 Renumbered effective July 1, 1998; amended and renumbered effective January 1, 2003.

7 **CHAPTER 1. General Provisions**

8 Title Five, Special Rules for Trial Courts—Division Ia, Family Law Rules—Chapter 1, General
9 Provisions; adopted effective January 1, 1970.

10 *Rule 5.105. Definitions*

11 *Rule 5.110. Construction of terms*

12 *Rule 5.115. Extensions of time*

13 *Rule 5.120. Holidays*

14 *Rule 5.125. Applicability of rules*

15 *Rule 5.130. General law applicable*

16 *Rule 5.135. Other proceedings*

17 *Rule 5.140. Status of family law and domestic violence forms*

18 *Rule 5.145. Use of forms in nonfamily law proceedings*

19 *Rule 5.150. Use of interstate forms*

20 *Rule 5.160. Judicial education for family court judicial officers*

21 *Rule 5.165. Minimum standards for the office of the family law facilitator*

22
23 **Rule 5.105. Definitions**

24
25 As used in this division, unless the context or subject matter otherwise requires:

26
27 (a) “Family Code” means that code enacted by chapter 162 of the Statutes of 1992
28 and any subsequent amendments to that code.

29
30 (b) “Party,” “petitioner,” “respondent,” “plaintiff,” “defendant,” “other parent,” or
31 any other designation of a party includes such party’s attorney of record. When
32 a notice or other paper is required to be given or served on a party, such notice

1 or service must be given to or made on the party's attorney of record if the
2 party has an attorney of record.

3
4 *(Subd (b) amended effective January 1, 2003; previously amended effective January 1,*
5 *1999.)*
6

7 (c) "Proceeding" means a proceeding under the Family Code for dissolution of
8 marriage, nullity of marriage, legal separation, custody and support of minor
9 children or actions under the Domestic Violence Prevention Act, the Uniform
10 Parentage Act, the Uniform Child Custody Jurisdiction and Enforcement Act,
11 or the Uniform Interstate Family Support Act; local child support agency
12 actions under the Family Code and contempt proceedings relating to Family
13 Law or local child support agency actions.
14

15 *(Subd (c) amended effective July 1, 2001; previously amended effective January 1, 1999.)*
16

17 (d) "Property" includes assets and obligations.
18

19 (e) "Serve and file" means that a paper filed in a court is to be accompanied by
20 proof of prior service in a manner permitted by law of a copy of the paper on
21 each party appearing in the proceeding.
22

23 *Rule 5.105 amended and renumbered effective January 1, 2003; previously amended effective*
24 *January 1, 1994 and January 1, 1999; adopted as rule 1201 effective January 1, 1970.*
25

26 **Rule 5.110. Construction of terms**

27

28 (a) "Must" is mandatory, and "may" is permissive.
29

30 *(Subd (a) amended effective January 1, 2003.)*
31

32 (b) The past, present, and future tense each includes the others.
33

34 *(Subd (b) amended effective January 1, 2003.)*
35

36 (c) The singular and plural number each includes the other.
37

38 *(Subd (c) amended effective January 1, 2003.)*
39

40 (d) Rule and subdivision headings do not in any manner affect the scope, meaning,
41 or intent of the provisions of these rules.
42

43 *Rule 5.110 amended and renumbered effective January 1, 2003; adopted as rule 1202 effective*
44 *January 1, 1970.*

1
2 **Rule 5.115. Extensions of time**
3

4 The time within which any act is permitted or required to be done by a party under
5 these rules may be extended by the court upon such terms as may be just.
6

7 *Rule 5.115 amended and renumbered effective January 1, 2003; adopted as rule 1203 effective*
8 *January 1, 1970.*
9

10 **Rule 5.120. Holidays**
11

12 If any day on which an act permitted or required to be done by these rules falls on a
13 legal holiday, the act may be performed on the next succeeding judicial day.
14

15 *Rule 5.120 amended and renumbered effective January 1, 2003; adopted as rule 1204 effective*
16 *January 1, 1970.*
17

18 **Rule 5.125. Applicability of rules**
19

20 The rules in this division apply to every action and proceeding as to which the
21 Family Code applies and, unless these rules elsewhere explicitly make them
22 applicable, do not apply to any other action or proceeding.
23

24 *Rule 5.125 amended and renumbered effective January 1, 2003; adopted as rule 1205 effective*
25 *January 1, 1970; previously amended effective January 1, 1979, January 1, 1994, and January 1,*
26 *1990.*
27

28 **Rule 5.130. General law applicable**
29

30 Except as otherwise provided in these rules, all provisions of law applicable to civil
31 actions generally apply to a proceeding under the Family Code if they would
32 otherwise apply to such proceeding without reference to this rule. To the extent that
33 these rules conflict with provisions in other statutes or rules, these rules prevail.
34

35 *Rule 1206 5.130 amended and renumbered effective January 1, 2003; adopted as rule 1206*
36 *effective January 1, 1970; previously amended effective January 1, 1994.*
37

38 **Rule 5.135. Other proceedings**
39

40 In any action under the Family Code but not otherwise subject to these rules by
41 virtue of rule 5.105(c), all provisions of law applicable to civil actions generally
42 apply. Such an action must be commenced by filing an appropriate petition, and the

1 respondent must file an appropriate response within 30 days after service of the
2 summons and a copy of the petition.

3
4 *Rule 5.135 amended and renumbered effective January 1, 2003; adopted as rule 1207 effective*
5 *January 1970; amended effective January 1, 1994.*
6

7 **Rule 5.140. Status of family law and domestic violence forms**
8

9 All forms adopted or approved by the Judicial Council for use in any proceeding
10 under the Family Code, including any form in the FL, ADOPT, DV, and FJ series,
11 are adopted as rules of court under the authority of Family Code section 211; article
12 VI, section 6 of the California Constitution; and other applicable law.
13

14 *Rule 5.140 amended and renumbered effective January 1, 2003; adopted as rule 1278 effective*
15 *January 1, 2001.*
16

17 **Rule 5.145. Use of forms in nonfamily law proceedings**
18

19 The forms specified by this division may be used, at the option of the party, in any
20 proceeding involving a financial obligation growing out of the relationship of parent
21 and child or husband and wife, to the extent they are appropriate to that proceeding.
22

23 *Rule 5.145 renumbered effective January 1, 2003; adopted as rule 1275 effective July 1, 1985.*
24

25 **Rule 5.150. Use of interstate forms**
26

27 Notwithstanding any other provision of these rules, all Uniform Interstate Family
28 Support Act forms approved by either the National Conference of Commissioners
29 on Uniform State Laws or the U.S. Department of Health and Human Services are
30 adopted for use in family law and other support actions in California.
31

32 *Rule 5.150 renumbered effective January 1, 2003; adopted as rule 1276 effective July 1, 1988;*
33 *amended effective January 1, 1998.*
34

35 **Rule 5.160. Judicial education for family court judicial officers**
36

37 Every judicial officer whose principal judicial assignment is to hear family law
38 matters or who is the sole judge hearing family law matters must, if funds are
39 available, attend the following judicial education programs:
40

- 41 (a) *(Basic family law education)* Within three months of beginning a family
42 law assignment, or within one year of beginning a family law assignment
43 in courts with five or fewer judges, the judicial officer must attend a basic

1 educational program on California family law and procedure designed
2 primarily for judicial officers. A judicial officer who has completed the
3 basic educational program need not attend the basic educational program
4 again. All other judicial officers who hear family law matters, including
5 retired judges who sit on court assignment, must participate in appropriate
6 family law educational programs.

7
8 (b) *(Continuing family law education)* The judicial officer must attend a
9 periodic update on new developments in California family law and
10 procedure.

11
12 (c) *(Other family law education)* To the extent that judicial time and
13 resources are available, the judicial officer must attend additional
14 educational programs on other aspects of family law including
15 interdisciplinary subjects relating to the family.

16
17 *Rule 5.160 amended and renumbered effective January 1, 2003; adopted as rule 1200 effective*
18 *January 1, 1992.*

19
20 **Rule 5.165. Minimum standards for the office of the family law facilitator**

21
22 (a) **[Authority]** These standards are adopted under Family Code section 10010.

23
24 (b) **[Family law facilitator qualifications]** The Office of the Family Law
25 Facilitator must be headed by at least one attorney, who is an active member of
26 the State Bar of California, known as the family law facilitator. Each family
27 law facilitator must possess the following qualifications:

28
29 (1) A minimum of five years experience in the practice of law, which must
30 include substantial family law practice including litigation and/or
31 mediation;

32
33 (2) Knowledge of family law procedures;

34
35 (3) Knowledge of the child support establishment and enforcement process
36 under Title IV-D of the federal Social Security Act (42 U.S.C. § 651 et
37 seq.);

38
39 (4) Knowledge of child support law and the operation of the uniform state
40 child support guideline; and
41

(5) Basic understanding of law and psychological issues related to domestic violence.

(Subd (b) amended effective January 1, 2003.)

(c) **[Substituted experience]** Courts may substitute additional experience, skills, or background appropriate to their community for the qualifications listed above.

(d) **[Desirable experience]** Additional desirable experience for a family law facilitator may include experience in working with low-income, semiliterate, unrepresented, or non-English-speaking litigants.

(e) **[Service provision]** Services may be provided by other paid and volunteer members of the Office of the Family Law Facilitator under the supervision of the family law facilitator.

(f) **[Protocol required]** Each court must develop a written protocol to provide services when a facilitator deems himself or herself disqualified or biased.

(g) **[Grievance procedure]** Each court must develop a written protocol for a grievance procedure for processing and responding to any complaints against a family law facilitator.

(Subd (g) adopted effective January 1, 2003.)

(h) **[Training requirements]** Each family law facilitator should attend at least one training per year for family law facilitators provided by the Judicial Council.

Rule 5.165 amended and renumbered effective January 1, 2003; adopted as rule 1208 effective January 1, 2000.

CHAPTER 2.0. Procedural Rules

Title Five, Special Rules for Trial Courts—Division Ia, Family Law Rules—Chapter 2, Procedural Rules; adopted effective January 1, 1970, amended and renumbered effective January 1, 2003.

Rule 5.200. Designation of parties

Rule 5.202. Parties to proceeding

Rule 5.204. Other causes of action

Rule 5.206. Injunctive relief and reservation of jurisdiction

Rule 5.208. Pleadings

Rule 5.210. Summons; restraining order

1 **Rule 5.212. Continuing jurisdiction**

2 **Rule 5.220. Alternative relief**

3 **Rule 5.224. Stipulation for judgment**

4 **Rule 5.226. Application for court order**

5 **Rule 5.246. Appearance**

6 **Rule 5.248. Default**

7 **Rule 5.254 Request for default**

8 **Rule 5.260. Alternate date of valuation**

9 **Rule 5.262. Financial declaration**

10 **Rule 5.264 Summary Dissolution**

11 **Rule 5.266. Notice of entry of judgment**

12 **Rule 5.268. Completion of notice of entry of judgment**

13 **Rule 5.272. Implied procedures**

14
15 **Rule 5.200. Designation of parties**

16
17 In proceedings filed under the Family Code, except for local child support agency
18 actions, the party initiating the proceeding is the petitioner, and the other party is the
19 respondent. In local child support agency actions, the responding party is the
20 defendant and the parent who is not the defendant is referred to as the “Other
21 Parent.” Every other proceeding must be prosecuted and defended in the names of
22 the real parties in interest.
23

24 *Rule 5.200 amended and renumbered effective January 1, 2003; adopted as rule 1210 effective*
25 *January 1, 1970; previously amended effective January 1, 1999.*
26

27 **Rule 5.202. Parties to proceeding**

28
29 (a) Except as provided in (b) or in rules 5.300 through 5.325, the only persons
30 permitted to be parties to a proceeding for dissolution, legal separation, or
31 nullity are the husband and wife.
32

33 *(Subd (a) amended effective January 1, 2003; previously amended effective January 1, 1977,*
34 *and January 1, 1999.)*
35

36 (b) In a nullity proceeding commenced by a person specified in Family Code
37 section 2211, other than a proceeding commenced by or on behalf of the
38 husband or wife, the person initiating the proceeding is a party and the caption
39 on all papers must be suitably modified to reflect that fact.
40

41 *(Subd (b) amended effective January 1, 2003; previously amended effective January 1,*
42 *1994.)*
43

1 *Rule 5.202 amended and renumbered effective January 1, 2003; adopted as rule 1211 effective*
2 *January 1, 1970; amended effective January 1, 1999; previously amended effective January 1,*
3 *1977, and January 1, 1994.*
4

5 **Rule 5.204 Other causes of action**
6

7 Neither party to the proceeding may assert against the other party or any other
8 person any cause of action or claim for relief other than for the relief provided in
9 these rules, Family Code sections 17400, 17402, and 17404, or other sections of the
10 Family Code.
11

12 *Rule 5.204 amended and renumbered effective January 1, 2003; adopted as rule 1212 effective*
13 *January 1, 1970; amended effective January 1, 1999; previously amended effective January 1,*
14 *1994.*
15

16 **Rule 5.206. Injunctive relief and reservation of jurisdiction**
17

18 (a) Upon application as set out in rule 5.226, the court may grant injunctive or
19 other relief against or for the following persons to protect the rights of either or
20 both parties to the proceeding under the Family Code:
21

22 (1) a person who has or claims an interest in the controversy;
23

24 (2) a person who but for rule 5.202 would be a necessary party to a complete
25 adjudication of the controversy; or
26

27 (b) (3) a person who is acting as a trustee, agent, custodian, or similar fiduciary
28 with respect to any property subject to disposition by the court in the
29 proceeding, or other matter subject to the jurisdiction of the court in the
30 proceeding
31

32 If the court is unable to resolve the issue in the proceeding under the Family
33 Code, the court may reserve jurisdiction over the particular issue until such
34 time as the rights of such person and the parties to the proceeding under the
35 Family Code have been adjudicated in a separate action or proceeding.
36

37 *Rule 5.206 amended and renumbered effective January 1, 2003; adopted as rule 1213 effective*
38 *January 1, 1970; previously amended effective January 1, 1994.*
39

40 **Rule 5.208. Pleadings**
41

42 (a) The forms of pleading and the rules by which the sufficiency of pleadings is to
43 be determined are solely those prescribed in these rules. Demurrers may not be
used.

- 1
2 (b) Amendments to pleadings, amended pleadings, and supplemental pleadings
3 may be served and filed in conformity with the provisions of law applicable to
4 such matters in civil actions generally, but the petitioner is not required to file a
5 reply if the respondent has filed a response. If both parties have filed pleadings,
6 there may be no default entered on an amended pleading of either party.
7

8 *Rule 5.208 amended and renumbered effective January 1, 2003; adopted as rule 1215 effective*
9 *January 1, 1970; previously amended effective January 1, 1999.*
10

11 **Rule 5.210. Summons; restraining order**
12

- 13 (a) **[Issuing the summons; form]** Except for support proceedings initiated by a
14 local child support agency, the procedure for issuance of summons in the
15 proceeding is that applicable to civil actions generally. The clerk must not
16 return the original summons, but must maintain it in the file.
17

18 *(Subd (a) amended effective January 1, 2003; previously amended effective January 1, 1999*
19 *and January 1, 2001.)*
20

- 21 (b) **[Standard family law restraining order; handling by clerk]** Notwithstanding
22 Family Code section 233, a summons (FL-110 or FL-210) with the standard
23 family law restraining orders must be issued and filed in the same manner as a
24 summons in a civil action, and must be served and in enforced the in the
25 manner prescribed for any other restraining order. If service is by publication,
26 the publication need not include the restraining orders.
27

28 *(Subd (b) amended effective January 1, 2003; adopted effective July 1, 1990; previously*
29 *amended effective January 1, 1994 and January 1, 1999.)*
30

- 31 (c) **[Individual restraining order]** On application of a party and as provided in
32 the Family Code, a court may issue any individual restraining order that
33 appears to be reasonable or necessary, including those restraining orders
34 included in the standard family law restraining orders. Individual orders
35 supersede the standard family law restraining orders on the Family Law and
36 Uniform Parentage Act summons.
37

38 *(Subd (c) amended effective January 1, 1999; previously amended effective January 1, 1999;*
39 *adopted effective July 1, 1990.)*
40

41 *Rule 5.210 amended and renumbered effective January 1, 2003; adopted effective January 1,*
42 *1970; previously amended effective July 1, 1990, January 1, 1994, January 1, 1999, and January*
43 *1, 2001.*
44

1 **Rule 5.212. Continuing jurisdiction**

2
3 The court has jurisdiction of the parties and control of all subsequent proceedings
4 from the time of service of the summons and a copy of the petition. A general
5 appearance of the respondent is equivalent to personal service within this state of the
6 summons and a copy of the petition upon him or her.

7
8 *Rule 5.212 renumbered effective January 1, 2003; adopted as rule 1217 effective January 1,*
9 *1970.*

10
11 **Rule 5.220. Alternative relief**

12
13 A party seeking alternative relief must so indicate in the petition or response.

14
15 *Rule 5.220 amended and renumbered effective January 1, 2003; adopted as rule 1221 effective*
16 *January 1, 1970.*

17
18 **Rule 5.224. Stipulation for judgment**

- 19
20 (a) A stipulation for judgment (which must be attached to form FL-180 or form FL-
21 250) may be submitted to the court for signature at the time of the hearing on the
22 merits and must contain the exact terms of any judgment proposed to be entered
23 in the case. At the end, immediately above the space reserved for the judge's
24 signature, the stipulation for judgment must contain the following:

25
26 The foregoing is agreed to by

(Petitioner)

(Respondent)

(Attorney for Petitioner)

(Attorney for Respondent)

- 27 (b) A stipulation for judgment must include disposition of all matters subject to the
28 court's jurisdiction for which a party seeks adjudication or an explicit reservation
29 of jurisdiction over any matter not proposed for disposition at that time. A
30 stipulation for judgment constitutes a written agreement between the parties as to
31 all matters covered by the stipulation.

32
33 *Rule 5.224 amended and renumbered effective January 1, 2003; adopted as rule 1223 effective*
34 *January 1, 1970; previously amended effective January 1, 1972.*

35
36 **Rule 5.226. Application for court order**

- 1 (a) No memorandum of points and authorities need be filed with an application
2 for a court order unless required by the court on a case-by-case basis.

3
4 *(Subd (a) amended effective January 1, 2003; adopted effective January 1, 1970)*
5

- 6 (b) A completed *Income and Expense Declaration* (form FL-150) or *Financial*
7 *Statement (Simplified)* (form FL-155), *Property Declaration* (form FL-160)
8 and *Application for Order and Supporting Declaration* (form FL-320) ,
9 must be attached to an application for an injunctive or other order when
10 relevant to the relief requested.

11
12 *(Subd (b) amended effective January 1, 2003.)*
13

- 14 (c) A copy of the *Application for Order and Supporting Declaration* with all
15 attachments, , and a blank copy of the *Responsive Declaration* (form FL-394)
16 must be served on the person against whom relief is requested. The original
17 application and order must be retained in the court file.

18
19 *(Subd (c) amended effective January 1, 2003.)*
20

- 21 (d) If relief is sought by an *Order to Show Cause*, a copy of the order endorsed
22 by the clerk must be served.

23
24 *(Subd (d) amended effective January 1, 2003.)*
25

- 26 (e) Blank copies of the *Income and Expense Declaration* or *Financial Statement*
27 *(Simplified)* and the *Property Declaration* must be served when completed
28 declarations are among the papers required to be served.

29
30 *(Subd (e) amended effective January 1, 2003;*
31

32 *Rule 5.226 amended and renumbered effective January 1, 2003; adopted as rule 1225 effective*
33 *January 1, 1970; previously amended effective January 1, 1972, July 1, 1977, and January 1,*
34 *1980, and January 1, 1999.*

35
36 *Rule 5.228 repealed effective January 1, 2003; adopted as rule 1226 effective January 1, 1970;*
37 *previously amended effective January 1, 1972 and January 1, 1994.*
38

39 **Rule 5.246. Appearance**

- 40
41 (a) A respondent or defendant appears in a proceeding when he or she files:

- 42
43 (1) a response or answer;
44

- 1 (2) a notice of motion to strike, under section 435 of the Code of Civil
2 Procedure;
3
4 (3) a notice of motion to quash the proceeding based on:
5 (A) petitioner's lack of legal capacity to sue,
6 (B) prior judgment or another action pending between the same
7 parties for the same cause,
8 (C) failure to meet the residence requirement of Family Code section
9 2320,
10 (D) statute of limitations in Family Code section 2211;
11
12 (4) a notice of motion to transfer the proceeding under section 395 of the
13 Code of Civil Procedure ; or
14
15 (5) a written notice of his or her appearance.
16

17 *(Subd (a) amended effective January 1, 2003.)*
18

- 19 (b) After appearance, the respondent or defendant or his or her attorney is entitled
20 to notice of all subsequent proceedings of which notice is required to be given
21 by these rules or in civil actions generally.
22
23 (c) Where a respondent or defendant has not appeared, notice of subsequent
24 proceedings need not be given to the respondent or defendant except as
25 provided in these rules.
26

27 *Rule 5.246 amended and renumbered effective January 1, 2003; adopted as rule 1236 effective*
28 *January 1, 1970; previously amended effective January 1, 1972 and January 1, 1999.*
29

30 **Rule 5.248. Default**
31

- 32 (a) Upon proper application of the petitioner, if the clerk must enter the
33 respondent's default the respondent or defendant fails within the time
34 permitted to:
35 (1) make an appearance as set forth in rule 5.246;
36
37 (2) file a notice of motion to quash service of summons under section
38 418.10 of the Code of Civil Procedure; or
39
40 (3) file a petition for writ of mandate under section 418.10 of the Code of
41 Civil Procedure;
42

43 *(Subd (a) amended effective January 1, 2003.)*

- 1
2 **(b)** The petitioner may apply to the court for the relief sought in the petition at
3 the time default is entered. The court must require proof to be made of the
4 facts stated in the petition and may enter its judgment accordingly. The court
5 may permit the use of a completed *Income and Expense Declaration* (form
6 FL-150) or *Financial Statement (Simplified)* (form FL-155) and *Property*
7 *Declaration* (form FL-160) as to all or any part of the proof required or
8 permitted to be offered on any issue as to which they are relevant.
9

10 *Rule 5.248 amended and renumbered January 1, 2003; adopted as rule 1237 effective January*
11 *1, 1970; previously amended effective January 1, 1972 and January 1, 1980.*
12

13 **Rule 5.254. Request for default**
14

- 15 **(a)** No default may be entered in any proceeding unless a request has been
16 completed in full on a *Request to Enter Default* (form FL-165) and filed by the
17 petitioner. However, an *Income and Expense Declaration* (form FL-150) or
18 *Financial Statement (Simplified)* (form FL-155) are not required if the petition
19 contains no demand for support, costs, or attorney's fees. A *Property*
20 *Declaration* (form FL-160) is not required if the petition contains no demand
21 for property. .
22

23 *(Subd (a) amended effective January 1, 2003.)*
24

- 25 **(b)** For the purpose of completing the declaration of mailing, unless service was by
26 publication and the address of respondent is unknown, it is not sufficient to
27 state that the address of the party to whom notice is given is unknown or
28 unavailable.
29

30 *Rule 5.254 amended and renumbered effective January 1, 2003; adopted as rule 1240 effective*
31 *January 1, 1970; previously amended effective January 1, 1979 and January 1, 1980.*
32

33 **Rule 5.260. Alternate date of valuation**
34

- 35 **(a) [Notice of motion]** An *Application for Separate Trial* (form FL-325) must be
36 used to provide the notice required by Family Code section 2552(b).
37

38 *(Subd (a) amended effective January 1, 2003.)*
39

- 40 **(b) [Declaration accompanying notice]** Form FL-325, must be accompanied by a
41 declaration stating the following:
42

- 43 (1) The proposed alternate valuation date;

(2) Whether the proposed alternate valuation date applies to all or only a portion of the assets and, if the motion is directed to only a portion of the assets, the declaration must separately identify each such asset; and

(3) The reasons supporting the alternate valuation date.

(Subd (b) amended effective January 1, 2003.)

Rule 5.260 amended and renumbered effective January 1, 2003; adopted as rule 1242.5 effective July 1, 1995.

Rule 5.262. Financial declaration

(a) A current *Income and Expense Declaration* (form FL-150) or a current *Financial Statement (Simplified)* (form FL-155) when such form is appropriate, and a current *Property Declaration* (form FL-160) must be served and filed by any party appearing at any hearing at which the court is to determine an issue as to which such declarations would be relevant. Current is defined as being completed within the last three months providing no facts have changed. Those forms must be sufficiently completed to allow determination of the issue.

(Subd (a) amended effective January 1, 2003.)

(b) When a party is represented by counsel and attorney's fees are requested by either party, the section on the *Income and Expense Declaration* pertaining to the amount in savings, credit union, certificates of deposit, and money market accounts must be fully completed, as well as the section pertaining to the amount of attorney's fees incurred, currently owed, and the source of money used to pay such fees.

(Subd (b) amended effective January 1, 2003.)

(c) A *Financial Statement (Simplified)* is not appropriate for use in proceedings to determine or modify spousal support or to determine attorney's fees.

(Subd (c) amended effective January 1, 2003.)

Rule 5.262 amended and renumbered January 1, 2003; adopted as rule 1243 effective January 1, 1970; previously amended effective January 1, 1972, January 1, 1980, July 1, 1985, and January 1, 1999.

Rule 5.264. Summary Dissolution

1 (a) **[Declaration of disclosure]** For the purposes of a proceeding for summary
2 dissolution under chapter 5 (beginning with Section 2400) of Part 3 of division
3 6 of the Family Code, attachment to the petition of completed worksheet pages
4 listing separate and community property and obligations as well as an *Income*
5 *and Expense Declaration* (form FL-150) or *Financial Statement (Simplified)*
6 (form FL-155) constitutes compliance with the disclosure requirements of
7 chapter 9 (beginning with section 2100) of part 1 of division 6 of the Family
8 Code.

9
10 (Subd (a) amended effective January 1, 2003; adopted effective January 1, 1993 as rule
11 1271; previously amended effective January 1, 1994.)
12

13 (b) **[Fee for filing]** The fee for filing a *Joint Petition for Summary Dissolution of*
14 *Marriage* (form FL-700) is the same as that charged for filing a *Petition* form
15 FL-100. No additional fee may be charged for the filing of any form
16 prescribed for use in a summary dissolution proceeding, except as required by
17 Government Code section 26859.

18
19 (Subd (b) amended effective January 1, 2003; adopted effective January 1, 1979, as rule
20 1271 subd (b), relettered effective January 1, 1993.)
21

22 Rule 5.264 amended and renumbered effective January 1, 2003; adopted as rule 1271 effective
23 January 1, 1979; previously amended effective January 1, 1993 and January 1, 1994.
24

25 **Rule 5.266. Notice of entry of judgment**

26
27 (a) Notwithstanding Code of Civil Procedure section 664.5, the clerk must give
28 notice of entry of judgment, using form FL-190, *Notice of Entry of Judgment*
29 to the attorney for each party or to the party if unrepresented, of the
30 following:

- 31
32 (1) a judgment of legal separation;
33 (2) a judgment of dissolution;
34 (3) a judgment of nullity;
35 (4) a judgment establishing parental relationship (on form FL-190); or
36 (5) a judgment regarding custody or support.

37
38 (Subd (a) amended effective January 1, 2003.)
39

40 (b) This rule applies to local child support agency proceedings except that the
41 notice of entry of judgment must be on form FL-635, *Notice of Entry of*
42 *Judgment and Proof of Service by Mail*.
43

1 (Subd (b) amended effective January 1, 2003.)

2
3 Rule 5.266 amended and renumbered effective January 1, 2003; adopted as rule 1247 effective
4 July 1, 1970; previously amended effective January 1, 1972, January 1, 1982 and January 1,
5 1999.
6

7 **Rule 5.268. Completion of notice of entry of judgment**
8

- 9 (a) **[Required attachments]** Every person who submits a judgment for
10 signature by the court must submit:
11 (1) stamped envelopes addressed to the parties.
12 (2) An original and at least two additional copies of the *Notice of Entry of*
13 *Judgment* (form FL-190) .
14

15 (Subd (a) amended effective January 1, 2003.)
16

- 17 (b) **[Fully completed]** Form FL-190 must be fully completed except for the
18 designation of the date entered, the date of mailing, and signatures. It must
19 specify in the certificate of mailing the place where notices have been given
20 to the other party.
21

22 (Subd (b) amended effective January 1, 2003.)
23

- 24 (c) **[Address of respondent or defendant]** If there has been no appearance by
25 the other party, the address stated in the affidavit of mailing in Part 3 of the
26 *Request to Enter Default* (form FL-165) must be the party's last known
27 address and must be used for mailing form FL-190 to that party. If service
28 was by publication and the address of respondent or defendant is unknown,
29 those facts must be stated in place of the required address.
30

31 (Subd (c) amended effective January 1, 2003.)
32

- 33 (d) **[Consequences of failure to comply]** Failure to complete the form or to
34 submit the envelopes is cause for refusal to sign the judgment until
35 compliance with the requirements of this rule.
36

37 (Subd (d) amended effective January 1, 2003.)
38

- 39 (e) **[Application to local child support agencies]** This rule applies to local
40 child support agency proceedings filed under the Family Code except that:
41
42 (1) The local child support agency must use form FL-635, *Notice of Entry*
43 *of Judgment and Proof of Service by Mail*.

(2) The local child support agency may specify in the certificate of mailing that the address where the notice of entry of judgment was mailed is on file with the local child support agency; and

(3) An envelope addressed to the local child support agency need not be submitted.

(Subd (e) amended effective January 1, 2003.)

Rule 5.268 amended and renumbered effective January 1, 2003; adopted as rule 1248 effective January 1, 1970; previously amended effective January 1, 1972, January 1, 1980, July 1, 1982, and January 1, 1999.

Rule 5.272. Implied procedures

In the exercise of the court's jurisdiction under the Family Code, if the course of proceeding is not specifically indicated by statute or these rules, any suitable process or mode of proceeding may be adopted by the court that is consistent with the spirit of the Family Code and these rules.

Rule 5.272 amended and renumbered effective January 1, 2003; adopted as rule 1249 effective January 1, 1970; amended effective January 1, 1994.

CHAPTER 3.0. Joinder of Parties

Title Five, Special Rules for Trial Courts—Division Ia, Family Law Rules—Chapter 3.0, Joinder of Parties; adopted effective January 1, 1970.

Rule 5.300. Joinder of persons claiming interest

Rule 5.305. "Claimant" defined

Rule 5.310. Persons who may seek joinder

Rule 5.315. Form of joinder application

Rule 5.320. Determination on joinder

Rule 5.325. Pleading rules applicable

Rule 5.330. Joinder of employee pension benefit plan

Rule 5.300. Joinder of persons claiming interest

Notwithstanding any other rule in this division, a person who claims or controls an interest subject to disposition in the proceeding may be joined as a party to the proceeding only as provided in this chapter. Except as otherwise provided in this

chapter, all provisions of law relating to joinder of parties in civil actions generally apply to the joinder of a person as a party to the proceeding.

Rule 5.300 renumbered effective January 1, 2003; adopted as rule 1250 effective November 23, 1970; amended effective January 1, 1978.

Rule 5.305. “Claimant” defined

As used in this chapter, “claimant” means a person joined or sought or seeking to be joined as a party to the proceeding.

Rule 5.305 renumbered effective January 1, 2003; adopted as rule 1251 effective November 23, 1970; amended effective January 1, 1972.

Rule 5.310. Persons who may seek joinder

(a) The petitioner or the respondent may apply to the court for an order joining a person as a party to the proceeding who has or claims custody or physical control of any of the minor children of the marriage or visitation rights with respect to such children or who has in his or her possession or control or claims to own any property subject to the jurisdiction of the court in the proceeding.

(Subd (a) amended effective January 1, 2003.)

(b) A person who has or claims custody or physical control of any of the minor children of the marriage or visitation rights with respect to such children may apply to the court for an order joining him or her as a party to the proceeding.

(Subd (b) amended effective January 1, 2003.)

(c) A person served with an order temporarily restraining the use of property in his or her possession or control or which he or she claims to own, or affecting the custody of minor children of the marriage or visitation rights with respect to such children, may apply to the court for an order joining him or her as a party to the proceeding.

(Subd (c) amended effective January 1, 2003.)

Rule 5.310 amended and renumbered effective January 1, 2003; adopted as rule 1252 effective November 23, 1970; amended effective July 1, 1975.

Rule 5.315. Form of joinder application

1 (a) All applications for joinder other than for an employee pension benefit plan
2 must be made by serving and filing form FL-371, *Notice of Motion and*
3 *Declaration for Joinder*. The hearing date must be less than 30 days from the
4 date of filing the notice. The completed form must state with particularity the
5 claimant's interest in the proceeding and the relief sought by the applicant, and
6 it must be accompanied by an appropriate pleading setting forth the claim as if
7 it were asserted in a separate action or proceeding.

8
9 (b) A blank copy of form FL-373, *Responsive Declaration to Motion for Joinder*
10 *and Consent Order for Joinder* must be served with the *Notice of Motion* and
11 accompanying pleading.

12
13 *(Subd (a) amended effective January 1, 2003; adopted effective November 23, 1970;*
14 *previously amended effective January 1, 1972, January 1, 1978, January 1, 1979, January 1,*
15 *1994, and January 1, 2001.)*

16
17 *Rule 5.315 amended and renumbered effective January 3, 2003; adopted as rule 1253 effective*
18 *November 23, 1970; previously amended effective January 1, 1972, January 1, 1978, January 1,*
19 *1979, July 1, 1985, January 1, 1994 and January 1, 2001.*

20 21 **Rule 5.320. Determination on joinder**

22
23 (a) **[Mandatory joinder]** The court must order joined as a party to the proceeding
24 any person the court discovers has physical custody or claims custody or
25 visitation rights with respect to any minor child of the marriage.

26
27 *(Subd (a) amended effective January 1, 2003.)*

28
29 (b) **[Permissive joinder]** The court may order that a person be joined as a party to
30 the proceeding if the court finds that it would be appropriate to determine the
31 particular issue in the proceeding and that the person to be joined as a party is
32 either indispensable to a determination of that issue or necessary to the
33 enforcement of any judgment rendered on that issue.

34
35 In determining whether it is appropriate to determine the particular issue in the
36 proceeding, the court must consider its effect upon the proceeding, including:

- 37
38 (1) whether the determination of that issue will unduly delay the disposition
39 of the proceeding,
40 (2) whether other parties would need to be joined to render an effective
41 judgment between the parties,
42 (3) whether the determination of that issue will confuse other issues in the
43 proceeding, and

- 1 (4) whether the joinder of a party to determine the particular issue will
2 complicate, delay, or otherwise interfere with the effective disposition of
3 the proceeding.
4

5 *(Subd (b) amended effective January 1, 2003.)*
6

- 7 **(c) [Procedure upon joinder]** If the court orders that a person be joined as a party
8 to the proceeding under subdivision (a) of rule 5.310, the court must direct that
9 a summons be issued on form FL-375 and that the claimant be served with a
10 copy of form FL-371, the pleading attached thereto, the order of joinder, and
11 the summons. The claimant has 30 days after service within which to file an
12 appropriate response.
13

14 *(Subd (c) amended effective January 1, 2003.)*
15

16 *Rule 5.320 amended and renumbered effective January 1, 2003; adopted as rule 1254 effective*
17 *November 23, 1970; amended effective July 1, 1975.*
18

19 **Rule 5.325. Pleading rules applicable** 20

21 Except as otherwise provided in this chapter or by the court in which the proceeding
22 is pending, the law applicable to civil actions generally governs all pleadings,
23 motions, and other matters pertaining to that portion of the proceeding as to which a
24 claimant has been joined as a party to the proceeding in the same manner as if a
25 separate action or proceeding not subject to these rules had been filed.
26

27 *Rule 5.325 amended and renumbered effective January 1, 2003; adopted as rule 1255 effective*
28 *November 23, 1970.*
29

30 **Rule 5.330. Joinder of employee pension benefit plan** 31

- 32 **(a)** Every request for joinder of employee pension benefit plan and order and every
33 pleading on joinder must be submitted on forms FL-372 and FL-370.
34
35 **(b)** Every summons issued on the joinder of employee pension benefit plan must
36 be on form FL-375.
37
38 **(c)** Every notice of appearance of employee pension benefit plan and responsive
39 pleading file under Family Code section 2063(b) must be given on form FL-
40 374.
41

42 *Rule 5.330 amended and renumbered effective January 1, 2003; adopted as rule 1256 effective*
43 *January 1, 1979; previously amended effective January 1, 1994.*

1
2 **CHAPTER 3.25. Bifurcation and Appeals**

3 Title Five, Special Rules for Trial Courts—Division Ia, Family Law Rules—Chapter 3.25,
4 Bifurcation and Appeals; adopted effective July 1, 1989.

5
6 **Rule 5.350. Bifurcation of issues**

7 **Rule 5.360. Interlocutory appeals**

8
9 **Rule 5.350. Bifurcation of issues**

10
11 (a) **[Bifurcation of issues]** On noticed motion of a party, the stipulation of the
12 parties, or its own motion, the court may bifurcate one or more issues to be
13 tried separately before other issues are tried. The motion must be heard not
14 later than the trial-setting conference.

15
16 (b) The clerk must mail copies of the order deciding the bifurcated issue and any
17 statement of decision under rule 232.5 to the parties within 10 days of their
18 filing, and must file a certificate of mailing.

19
20 *(Subd (a) amended effective January 1, 2003; previously amended effective January 1,*
21 *1994.)*

22 (c) **[When to bifurcate]** The court may try separately one or more issues before
23 trial of the other issues if resolution of the bifurcated issue is likely to simplify
24 the determination of the other issues. Issues that may be appropriate to try
25 separately in advance include:

26
27 (1) Validity of a postnuptial or premarital agreement;

28
29 (2) Date of separation;

30
31 (3) Date to use for valuation of assets;

32
33 (4) Whether property is separate or community;

34
35 (5) How to apportion increase in value of a business;

36
37 (6) Existence or value of business or professional goodwill.

38
39 *(Subd (b) amended effective January 1, 2003.)*
40

1 *Rule 5.350 amended and renumbered effective January 1, 2003; adopted as rule 1269 effective*
2 *July 1, 1989; previously amended effective January 1, 1994.*
3

4 **Rule 5.360. Interlocutory appeals**
5

- 6 (a) **[Applicability]** This rule does not apply to appeals from the court's
7 termination of marital status as a separate issue, or to appeals from other orders
8 that are separately appealable.
9

10 *(Subd (a) amended effective January 1, 1994.)*
11

12 (b) **[Certificate of probable cause for appeal]**
13

- 14 (1) The order deciding the bifurcated issue may include an order certifying
15 that there is probable cause for immediate appellate review of the issue.
16 (2) If it was not in the order, within 10 days after the clerk mails the order
17 deciding the bifurcated issue, a party may notice a motion asking the
18 court to certify that there is probable cause for immediate appellate
19 review of the order. The motion must be heard within 30 days after the
20 order deciding the bifurcated issue is mailed.
21 (3) The clerk must promptly mail notice of the decision on the motion to the
22 parties. If the motion is not determined within 40 days after mailing of the
23 order on the bifurcated issue, it is deemed granted on the grounds stated
24 in the motion.
25

26 *(Subd (b) amended effective January 1, 2003, previously amended effective January 1,*
27 *2002.)*
28

29 (c) **[Content and effect of certificate]**
30

- 31 (1) A certificate of probable cause must state, in general terms, the reason
32 immediate appellate review is desirable, such as a statement that final
33 resolution of the issue
34
35 (A) is likely to lead to settlement of the entire case;
36
37 (B) will simplify remaining issues;
38
39 (C) will conserve the courts' resources; or
40
41 (D) will benefit the well-being of a child of the marriage or the parties.
42

- 1 (2) If a certificate is granted, trial of the remaining issues may be stayed. If
2 trial of the remaining issues is stayed, unless otherwise ordered by the trial
3 court on noticed motion, further discovery must be stayed while the
4 certification is pending. These stays terminate upon the expiration of time
5 for filing a motion to appeal if none is filed, or upon the Court of Appeal
6 denying all motions to appeal, or upon the Court of Appeal decision
7 becoming final.
8

9 *(Subd (c) amended effective January 1, 2003, previously amended effective January 1, 2002.)*
10

11 **(d) [Motion to appeal]**
12

- 13 (1) If the certificate is granted, a party may within 15 days after the mailing
14 of the notice of the order granting it serve and file in the Court of Appeal
15 a motion to appeal the decision on the bifurcated issue. On ex parte
16 application served and filed within 15 days, the Court of Appeal or the
17 trial court may extend the time for filing the motion to appeal by not more
18 than an additional 20 days.
19
- 20 (2) The motion must contain
21
- 22 (A) a brief statement of the facts necessary to an understanding of the
23 issue;
24
- 25 (B) a statement of the issue; and
26
- 27 (C) a statement of why, in the context of the case, an immediate appeal
28 is desirable.
29
- 30 (3) The motion must include or have attached
31
- 32 (A) a copy of the decision of the trial court on the bifurcated issue;
33
- 34 (B) any statement of decision;
35
- 36 (C) the certification of the appeal; and a sufficient partial record to
37 enable the Court of Appeal to determine whether to grant the
38 motion.
39
- 40 (4) A summary of evidence and oral proceedings, if relevant, supported by a
41 declaration of counsel may be used when a transcript is not available.
42

1 (5) The motion must be accompanied by the filing fee for an appeal under
2 rule 1(c) and Government Code sections 68926 and 68926.1.

3
4 (6) A copy of the motion must be served on the trial court.

5
6 *(Subd (d) amended effective January 1, 2002.)*
7

8 **(e) [Proceedings to determine motion]**
9

10 (1) Within 10 days after service of the motion, an adverse party may serve
11 and file an opposition to it.

12
13 (2) The motion to appeal and any opposition will be submitted without oral
14 argument, unless otherwise ordered.

15
16 (3) The motion to appeal is deemed granted unless it is denied within 30 days
17 from the date of filing the opposition or the last document requested by
18 the court, whichever is later.

19
20 (4) Denial of a motion to appeal is final forthwith and is not subject to
21 rehearing. A party aggrieved by the denial of the motion may petition for
22 review by the Supreme Court.

23
24 *(Subd (e) amended effective January 1, 2002.)*
25

26 **(f) [Proceedings if motion to appeal is granted]**
27

28 (1) If the motion to appeal is granted, the moving party is deemed an
29 appellant, and the rules governing other civil appeals apply except as
30 provided in this rule.

31
32 (2) The partial record filed with the motion will be considered the record for
33 the appeal unless, within 10 days from the date notice of the grant of the
34 motion is mailed, a party notifies the Court of Appeal of additional
35 portions of the record that are needed for a full consideration of the
36 appeal.

37
38 (3) If a party notifies the court of the need for an additional record, the
39 additional material must be secured from the trial court by augmentation
40 under rule 12, unless it appears to the Court of Appeal that some of the
41 material is not needed.
42

1 (4) Briefs must be filed under a schedule set for the matter by the Court of
2 Appeal.
3

4 *(Subd (f) amended effective January 1, 2003, previously amended effective January 1, 2002.)*
5

6 **(g) [Review by writ or appeal]** The trial court's denial of a certification motion
7 under (b) does not preclude review of the decision on the bifurcated issue by
8 extraordinary writ.
9

10 *(Subd (g) amended effective January 1, 2002.)*
11

12 **(h) [Review by appeal]** None of the following precludes review of the decision on
13 the bifurcated issue upon appeal of the final judgment:
14

15 (1) A party's failure to move for certification under (b) for immediate appeal;
16 (2) The trial court's denial of a certification motion under (b) for immediate
17 appeal;
18

19 (3) A party's failure to move to appeal under (d); and
20

21 (4) The Court of Appeal's denial of a motion to appeal under (d).
22

23 *Rule 5.360 amended and renumbered effective January 1, 2003; adopted as rule 1269.5 effective*
24 *July 1, 1989; previously amended January 1, 1994 and January 1, 2002.*
25

26 **CHAPTER 4.0. Child Custody**

27 Title Five, Special Rules for Trial Courts—Division Ia, Family Law Rules—Chapter 4.0, Child
28 Custody; adopted effective January 1, 1993; amended effective January 1, 1999..

29 ***Rule 5.410. Court-connected child custody mediation***

30 ***Rule 5.415. Domestic violence protocol for Family Court Services***

31 ***Rule 5.420. Court-ordered child custody evaluations***
32

33 **Rule 5.410. Court-connected child custody mediation**
34

35 **(a) [Authority]** This rule of court is adopted under article VI, section 6 of the
36 California Constitution and Family Code sections 211, 3160, and 3162(a).
37

38 **(b) [Purpose]** This rule sets forth standards of practice and administration for
39 court-connected child custody mediation services that are consistent with the
40 requirements of Family Code section 3161.
41

1 **(c) [Definitions]**

- 2
- 3 (1) “Best interest of the child” is defined in Family Code section 3011.
- 4
- 5 (2) “Parenting plan” is a plan describing how parents or other appropriate
- 6 parties will share and divide their decision making and caretaking
- 7 responsibilities to protect the health, safety, welfare, and best interest of
- 8 each child who is a subject of the proceedings.
- 9

10 **(d) [Responsibility for mediation services]**

- 11
- 12 (1) Each court must ensure that:
- 13
- 14 (A) Mediators are impartial, competent, and uphold the standards of
- 15 practice contained in this rule of court.
- 16
- 17 (B) Mediation services and case management procedures implement
- 18 state law and allow sufficient time for parties to receive orientation,
- 19 participate fully in mediation, and develop a comprehensive
- 20 parenting plan without unduly compromising each party’s right to
- 21 due process and a timely resolution of the issues.
- 22
- 23 (C) Mediation services demonstrate accountability by:
- 24
- 25 (i) Providing for acceptance of and response to complaints about a
- 26 mediator’s performance;
- 27
- 28 (ii) Participating in statewide data collection efforts; and
- 29
- 30 (iii) Disclosing the use of interns to provide mediation services.
- 31
- 32 (D) The mediation program uses a detailed intake process that screens
- 33 for, and informs the mediator about, any restraining orders or safety-
- 34 related issues affecting any party or child named in the proceedings
- 35 to allow compliance with relevant law or court rules before
- 36 mediation begins.
- 37
- 38 (E) Whenever possible, mediation is available from bilingual mediators
- 39 or other interpreter services that meet the requirements of Evidence
- 40 Code sections 754(f) and 755(a) and section 18 of the California
- 41 Standards of Judicial Administration.
- 42

- 1 (F) Mediation services protect, in accordance with existing law, party
2 confidentiality, in:
3
4 (i) Storage and disposal of records and any personal information
5 accumulated during the mediation process;
6
7 (ii) Interagency coordination or cooperation regarding a particular
8 family or case; and
9
10 (iii) Management of child abuse reports and related documents.
11
12 (G) Mediation services provide a written description of limitations on the
13 confidentiality of the process.
14
15 (H) Within one year of the adoption of this rule, the court adopts a local
16 court rule regarding ex parte communications.
17

18 (2) Each court-connected mediator must:
19

- 20 (A) Maintain an overriding concern to integrate the child's best interest
21 within the family context;
22
23 (B) Inform the parties and any counsel for a minor child if the mediator
24 will make a recommendation to the court as provided under Family
25 Code section 3184;
26
27 (C) Use reasonable efforts and consider safety issues to:
28
29 (i) Facilitate the family's transition and reduce acrimony by
30 helping the parties improve their communication skills, focus
31 on the child's needs and areas of stability, identify the family's
32 strengths, and locate counseling or other services;
33
34 (ii) Develop a comprehensive parenting agreement that addresses
35 each child's current and future developmental needs; and
36
37 (iii) Control for potential power imbalances between the parties
38 during mediation.
39

40 *(Subd (d) amended effective January 1, 2003.)*
41

- 42 (e) **[Mediation process]** All court-connected mediation processes must be
43 conducted in accordance with state law and include:

- (1) Review of the intake form and court file, if available, before the start of mediation;
- (2) Oral or written orientation or parent education that facilitates the parties' informed and self-determined decision making about:
 - (A) The types of disputed issues generally discussed in mediation and the range of possible outcomes from the mediation process;
 - (B) The mediation process, including the mediator's role; the circumstances that may lead the mediator to make a particular recommendation to the court; limitations on the confidentiality of the process; and access to information communicated by the parties or included in the mediation file;
 - (C) How to make best use of information drawn from current research and professional experience to facilitate the mediation process, parties' communication, and co-parenting relationship; and
 - (D) How to address each child's current and future developmental needs;
- (3) Interviews with children at the mediator's discretion and consistent with Family Code section 3180(a). The mediator may interview the child alone or together with other interested parties, including stepparents, siblings, new or step-siblings, or other family members significant to the child. If interviewing a child, the mediator must:
 - (A) Inform the child in an age-appropriate way of the mediator's obligation to disclose suspected child abuse and neglect and the local policies concerning disclosure of the child's statements to the court; and
 - (B) With parental consent, coordinate interview and information exchange among agency or private professionals to reduce the number of interviews a child might experience;
- (4) Assistance to the parties, without undue influence or personal bias, in developing a parenting plan that protects the health, safety, welfare, and best interest of the child and that optimizes the child's relationship with each party by including, as appropriate, provisions for supervised visitation in high-risk cases; designations for legal and physical custody; a

1 description of each party's authority to make decisions that affect the
2 child; language that minimizes legal, mental health, or other jargon; and a
3 detailed schedule of the time a child is to spend with each party, including
4 vacations, holidays, and special occasions, and times when the child's
5 contact with a party may be interrupted;

- 6
- 7 (5) Extension of time to allow the parties to gather additional information if
8 the mediator determines that such information will help the discussion
9 proceed in a fair and orderly manner or facilitate an agreement;
- 10
- 11 (6) Suspension or discontinuance of mediation if allegations of child abuse or
12 neglect are made until a designated agency performs an investigation and
13 reports a case determination to the mediator;
- 14
- 15 (7) Termination of mediation if the mediator believes that he or she is unable
16 to achieve a balanced discussion between the parties;
- 17
- 18 (8) Conclusion of mediation with:
- 19
- 20 (A) A written parenting plan summarizing the parties' agreement or
21 mediator's recommendation that is given to counsel or the parties
22 before the recommendation is presented to the court; and
- 23
- 24 (B) A written or oral description of any subsequent case management or
25 court procedures for resolving one or more outstanding custody or
26 visitation issues, including instructions for obtaining temporary
27 orders; and
- 28
- 29 (9) Return to mediation to resolve future custody or visitation disputes.
- 30

31 *(Subd (e) amended effective January 1, 2003.)*

32

33 **(f) [Training, continuing education, and experience requirements for**
34 **mediator, mediation supervisor, and family court services director] As**
35 **specified in Family Code sections 1815 and 1816:**

36

- 37 (1) All mediators, mediation supervisors, and family court service program
38 directors must:
- 39
- 40 (A) Complete a minimum of 40 hours of custody and visitation
41 mediation training within the first six months of initial employment
42 as a court-connected mediator;
- 43

1 (B) Attend related continuing education programs, conferences, and
2 workshops; and

3
4 (C) Participate in performance supervision and peer review.

- 5
6 (2) Each family court services director and mediation supervisor must attend
7 at least 32 hours of additional training each calendar year. This
8 requirement may be satisfied in part by the domestic violence training
9 required by Family Code section 1816.

10
11 *(Subd (f) amended effective January 1, 2003.)*
12

13 (g) **[Ethics]** Mediation must be conducted in an atmosphere that encourages trust
14 in the process and a perception of fairness. To that end, mediators must:

- 15
16 (1) Meet the practice and ethical standards of the Code of Ethics for the
17 Court Employees of California and of related law;
18
19 (2) Maintain objectivity, provide and gather balanced information for both
20 parties, and control for bias;
21
22 (3) Protect the confidentiality of the parties and the child in making any
23 collateral contacts and not release information about the case to any
24 individual except as authorized by the court or statute;
25
26 (4) Not offer any recommendations about a party unless that party has been
27 evaluated directly or in consultation with another qualified neutral
28 professional;
29
30 (5) Consider the health, safety, welfare, and best interest of the child in all
31 phases of the process, including interviews with parents, extended family
32 members, counsel for the child, and other interested parties or collateral
33 contacts;
34
35 (6) Strive to maintain the confidential relationship between the child who is
36 the subject of an evaluation and his or her treating psychotherapist;
37
38 (7) Operate within the limits of his or her training and experience and
39 disclose any limitations or bias that would affect his or her ability to
40 conduct the mediation;
41
42 (8) Not require children to state a custodial preference;
43

- 1 (9) Not disclose any recommendations to the parties, their attorneys, or the
2 attorney for the child before having gathered the information necessary to
3 support the conclusion;
4
5 (10) Disclose to the court, parties, attorneys for the parties, and attorney for the
6 child conflicts of interest or dual relationships and not accept any
7 appointment except by court order or the parties' stipulation;
8
9 (11) Be sensitive to the parties' socioeconomic, gender, race, ethnicity, cultural
10 values, religious, family structures, and developmental characteristics; and
11
12 (12) Disclose any actual or potential conflicts of interest. In the event of a
13 conflict of interest, the mediator must suspend mediation and meet and
14 confer in an effort to resolve the conflict of interest to the satisfaction of
15 all parties or according to local court rules. The court may order
16 mediation to continue with another mediator or offer the parties
17 alternatives. The mediator cannot continue unless the parties agree in
18 writing to continue mediation despite the disclosed conflict of interest.
19

20 *(Subd (g) amended effective January 1, 2003.)*
21

22 *Rule 5.410 amended and renumbered effective January 1, 2003; adopted as rule 1257.1 effective*
23 *July 1, 2001.*
24

25 **Rule 5.415. Domestic violence protocol for Family Court Services**
26

- 27 (a) **[Authority]** This rule of court is adopted under article VI, section 6 of the
28 California Constitution and Family Code sections 211, 1850(a), and 3170(b).
29
30 (b) **[Purpose]** This rule sets forth the protocol for Family Court Services'
31 handling of domestic violence cases consistent with the requirement of Family
32 Code section 3170(b).
33
34 (c) **[Definitions]**
35
36 (1) "Domestic violence" is used as defined in Family Code sections 6203 and
37 6211.
38
39 (2) "Protective order" is used as defined in Family Code section 6215
40 "Emergency Protective Order", Family Code section 6218 "Protective
41 Order", and Penal Code section 136.2 (orders by court). "Domestic
42 violence restraining order" is synonymous with "protective order."
43

- 1 (3) “Mediation” refers to proceedings described in Family Code section 3161.
2
3 (4) “Evaluation” and “investigation” are synonymous terms.
4
5 (5) “Family Court Services” refers to court-connected child custody services
6 and child custody mediation made available by superior courts under
7 Family Code section 3160.
8
9 (6) “Family Court Services staff” refers to contract and employee mediators,
10 evaluators, investigators, and counselors who provide services on behalf of
11 Family Court Services.
12
13 (7) “Differential domestic violence assessment” is a process used to assess the
14 nature of any domestic violence issues in the family so that Family Court
15 Services may provide services in such a way as to protect any victim of
16 domestic violence from intimidation, provide services for perpetrators, and
17 correct for power imbalances created by past and prospective violence.
18

19 **(d) [Family Court Services: Description and duties]**
20

- 21 (1) (*Local protocols*) Family Court Services must handle domestic violence
22 cases in accordance with pertinent state laws and all applicable rules of
23 court and must develop local protocols in accordance with this rule.
24
25 (2) (*Family Court Services duties relative to domestic violence cases*) Family
26 Court Services is a court-connected service that must:
27
28 (A) Identify cases in Family Court Services that involve domestic
29 violence, and code Family Court Services files to identify such cases;
30
31 (B) Make reasonable efforts to ensure the safety of victims, children, and
32 other parties when they are participating in services provided by
33 Family Court Services;
34
35 (C) Make appropriate referrals; and
36
37 (D) Conduct a differential domestic violence assessment in domestic
38 violence cases and offer appropriate services as available, such as
39 child custody evaluation, parent education, parent orientation,
40 supervised visitation, child custody mediation, relevant education
41 programs for children, and other services as determined by each
42 superior court.

- 1
2 (3) (*No negotiation of violence*) Family Court Services staff must not negotiate
3 with the parties about using violence with each other, whether either party
4 should or should not obtain or dismiss a restraining order, or whether
5 either party should cooperate with criminal prosecution.
6
7 (4) (*Domestic violence restraining orders*) Notwithstanding the above, to the
8 extent permitted under Family Code section 3183(c), in appropriate cases,
9 Family Court Services staff may recommend that restraining orders be
10 issued, pending determination of the controversy, to protect the well-being
11 of the child involved in the controversy.
12
13 (5) (*Providing information*) Family Court Services staff must provide
14 information to families accessing their services about the effects of
15 domestic violence on adults and children. Family Court Services programs,
16 including but not limited to orientation programs, must provide information
17 and materials that describe Family Court Services policy and procedures
18 with respect to domestic violence. Where possible, the videotapes
19 provided should be closed-captioned.
20
21 (6) (*Separate sessions*) In a Family Court Services case in which there has
22 been a history of domestic violence between the parties or in which a
23 protective order as defined in Family Code section 6218 is in effect, at the
24 request of the party who is alleging domestic violence in a written
25 declaration under penalty of perjury or who is protected by the order, the
26 Family Court Services mediator, counselor, evaluator, or investigator must
27 meet with the parties separately and at separate times. When appropriate,
28 arrangements for separate sessions must protect the confidentiality of each
29 party's times of arrival, departure, and meeting with Family Court
30 Services. Family Court Services must provide information to the parties
31 regarding their options for separate sessions under Family Code sections
32 3113 and 3181. If domestic violence is discovered after mediation or
33 evaluation has begun, the Family Court Services staff member assigned to
34 the case must confer with the parties separately regarding safety-related
35 issues and the option of continuing in separate sessions at separate times.
36 Family Court Services staff, including support staff, must not respond to a
37 party's request for separate sessions as though it were evidence of his or
38 her lack of cooperation with the Family Court Services process.
39
40 (7) (*Referrals*) Family Court Services staff, where applicable, must refer
41 family members to appropriate services. Such services may include but are
42 not limited to programs for perpetrators, counseling and education for

1 children, parent education, services for victims, and legal resources, such
2 as family law facilitators.

- 3
4 (8) (*Community resources*) Family Court Services should maintain a liaison
5 with community-based services offering domestic violence prevention
6 assistance and support so that referrals can be made based on an
7 understanding of available services and service providers.
8

9 **(e) [Intake]**

- 10
11 (1) (*Court responsibility*) Each court must ensure that Family Court Services
12 programs use a detailed intake process that screens for, and informs staff
13 about, any restraining orders, dependency petitions under Welfare and
14 Institutions Code section 300, and other safety-related issues affecting any
15 party or child named in the proceedings.
16
17 (2) (*Intake form*) Any intake form that an agency charged with providing
18 family court services requires the parties to complete before the
19 commencement of mediation or evaluation must state that, if a party
20 alleging domestic violence in a written declaration under penalty of perjury
21 or a party protected by a protective order so requests, the Family Court
22 Services staff must meet with the parties separately and at separate times.
23
24 (3) (*Review of intake form and case file*) All Family Court Services
25 procedures must be conducted in accordance with state law and must
26 include review of intake forms and court files, when available, by
27 appropriate staff.
28

29 **(f) [Screening]**

- 30
31 (1) (*Identification of domestic violence*) Screening for a history of domestic
32 violence incidents must be done throughout the Family Court Services
33 process. As early in the case as possible, Family Court Services staff
34 should make every effort to identify cases in which incidents of domestic
35 violence are present. The means by which Family Court Services elicits
36 screening information may be determined by each program. Screening
37 techniques may include but are not limited to questionnaires, telephone
38 interviews, standardized screening devices, and face-to-face interviews.
39
40 (2) (*Procedures for identification*) Procedures for identifying domestic
41 violence may include, but are not limited to: (a) determination of an
42 existing emergency protective order or domestic violence restraining order

1 concerning the parties or minor; (b) review of court papers and
2 declarations; (c) telephone interviews; (d) use of an intake form; (e)
3 orientation; (f) information from attorneys, shelters, hospital reports, Child
4 Protective Services, police reports, and criminal background checks; and
5 (g) other collateral sources. Questions specific to incidents of domestic
6 violence should request the following information: date of the parties'
7 separation, frequency of domestic violence, most recent as well as past
8 incidents of domestic violence, concerns about future domestic violence,
9 identities of children and other individuals present at domestic violence
10 incidents or otherwise exposed to the domestic violence, and severity of
11 domestic violence.
12

- 13 (3) (*Context for screening*) In domestic violence cases in which neither party
14 has requested separate sessions at separate times, Family Court Services
15 staff must confer with the parties separately and privately to determine
16 whether joint or separate sessions are appropriate.
17

18 **(g) [Safety issues]**
19

- 20 (1) (*Developing a safety plan*) When domestic violence is identified or
21 alleged in a case, Family Court Services staff must consult with the party
22 alleging domestic violence away from the presence of the party against
23 whom such allegations are made, and discuss the existence of or need for a
24 safety plan. Safety planning may include but is not limited to discussion of
25 safe housing, workplace safety, safety for other family members and
26 children, access to financial resources, and information about local
27 domestic violence agencies.
28
- 29 (2) (*Safety procedures*) Each Family Court Services office should develop
30 safety procedures for handling domestic violence cases.
31
- 32 (3) (*Confidential addresses*) Where appropriate, Family Court Services staff
33 must make reasonable efforts to keep residential addresses, work
34 addresses, and contact information—including but not limited to telephone
35 numbers and e-mail addresses—confidential in all cases and on all Family
36 Court Services documents.
37

38 **(h) [Support persons]**
39

- 40 (1) (*Support person*) Family Court Services staff must advise the party
41 protected by a protective order of the right to have a support person attend

1 any mediation orientation or mediation sessions, including separate
2 mediation sessions, under Family Code section 6303.

- 3
4 (2) (*Excluding support person*) A Family Court Services staff person may
5 exclude a domestic violence support person from a mediation session if the
6 support person participates in the mediation session or acts as an advocate
7 or the presence of a particular support person disrupts the process of
8 mediation. The presence of the support person does not waive the
9 confidentiality of the process, and the support person is bound by the
10 confidentiality of the process.

- 11
12 (i) **[Accessibility of services]** To effectively address domestic violence cases, the
13 court must make reasonable efforts to ensure the availability of safe and
14 accessible services that include, but are not limited to:

- 15
16 (1) (*Language accessibility*) Whenever possible, Family Court Services
17 programs should be conducted in the languages of all participants,
18 including those who are deaf. When the participants use only a language
19 other than spoken English and the Family Court Services staff person does
20 not speak their language, an interpreter—certified whenever possible—
21 should be assigned to interpret at the session. A minor child of the parties
22 must not be used as an interpreter. An adult family member may act as an
23 interpreter only when appropriate interpreters are not available. When a
24 family member is acting as an interpreter, Family Court Services staff
25 should attempt to establish, away from the presence of the potential
26 interpreter and the other party, whether the person alleging domestic
27 violence is comfortable with having that family member interpret for the
28 parties.

- 29
30 (2) (*Facilities design*) To minimize contact between the parties and promote
31 safety in domestic violence cases, courts must give consideration to the
32 design of facilities. Such considerations must include but are not limited to
33 the following: separate and secure waiting areas, separate conference
34 rooms for parent education and mediation, signs providing directions to
35 Family Court Services, and secure parking for users of Family Court
36 Services.

- 37
38 (j) **[Training and education]**

- 39
40 (1) (*Training, continuing education, and experience requirements for Family*
41 *Court Services staff*) All Family Court Services staff must participate in
42 programs of continuing instruction in issues related to domestic violence,

1 including child abuse, as may be arranged for and provided to them, under
2 Family Code section 1816(a).

3
4 (2) (*Advanced domestic violence training*) Family Court Services staff must
5 complete 16 hours of advanced domestic violence training within the first
6 12 months of employment and 4 hours of domestic violence update
7 training each year thereafter. The content of the 16 hours of advanced
8 domestic violence training and 4 hours of domestic violence update
9 training must be the same as that required for court-appointed child
10 custody investigators and evaluators as stated in rule 1257.7. Those staff
11 members employed by Family Court Services on January 1, 2002, who
12 have not already fulfilled the requirements of rule 1257.7 must participate
13 in the 16- hour training within one year of the rule's effective date.

14
15 (3) (*Support staff*) Family Court Services programs should, where possible,
16 enable support staff, including but not limited to clerical staff, to
17 participate in training on domestic violence and in handling domestic
18 violence cases appropriately.

19
20 *Rule 5.415 amended and renumbered January 1, 2003; adopted as rule 1257.25 effective January*
21 *1, 2002.*

22
23 ***Rule 5.420. Court-ordered child custody evaluations***

24
25 (a) **[Authority]** This rule of court is adopted under article VI, section 6 of the
26 California Constitution and Family Code sections 211 and 3117.

27
28 (b) **[Purpose]** Courts order child custody evaluations, investigations, and
29 assessments to assist them in determining the health, safety, welfare, and best
30 interest of children with regard to disputed custody and visitation issues. This
31 rule governs both court-connected and private child custody evaluators
32 appointed under Family Code section 3111, Evidence Code section 730, or
33 Code of Civil Procedure section 2032.

34
35 (c) **[Definitions]** For purposes of this rule:

36
37 (1) A "child custody evaluator" is a court-appointed investigator as defined in
38 Family Code section 3110.

39
40 (2) The "best interest of the child" is as defined in Family Code section 3011.
41

- 1 (3) A “child custody evaluation” is an expert investigation and analysis of the
2 health, safety, welfare, and best interest of children with regard to
3 disputed custody and visitation issues.
4
5 (4) A “full evaluation, investigation, or assessment” is a comprehensive
6 examination of the health, safety, welfare, and best interest of the child.
7
8 (5) A “partial evaluation, investigation, or assessment” is an examination of
9 the health, safety, welfare, and best interest of the child that is limited by
10 court order in either time or scope.
11
12 (6) “Evaluation,” “investigation,” and “assessment” are synonymous.
13

14 **(d) [Responsibility for evaluation services]**
15

- 16 (1) Each court must:
17
18 (A) Adopt local rule within one year of this rule’s effective date to:
19
20 (i) Implement this rule of court;
21
22 (ii) Determine whether a peremptory challenge to a court-appointed
23 evaluator is allowed and when the challenge must be exercised.
24 The rules must specify whether a family court services staff
25 member, other county employee, a mental health professional,
26 or all of them may be challenged;
27
28 (iii) Allow evaluators to petition the court to withdraw from a case;
29
30 (iv) Provide for acceptance of and response to complaints about an
31 evaluator’s performance; and
32
33 (v) Address ex parte communications.
34
35 (B) Give the evaluator, before the evaluation begins, a copy of the court
36 order that specifies:
37
38 (i) The appointment of the evaluator under Evidence Code section
39 730, Family Code section 3110, or Code of Civil Procedure
40 2032; and
41
42 (ii) The purpose and scope of the evaluation.

1
2 (C) Require child custody evaluators to adhere to the requirements of
3 this rule.

4
5 (D) Determine and allocate between the parties any fees or costs of the
6 evaluation.

7
8 (2) The child custody evaluator must:

9
10 (A) Consider the health, safety, welfare, and best interest of the child
11 within the scope and purpose of the evaluation as defined by the
12 court order;

13
14 (B) Strive to minimize the potential for psychological trauma to children
15 during the evaluation process; and

16
17 (C) Include in the initial meeting with each child an age-appropriate
18 explanation of the evaluation process, including limitations on the
19 confidentiality of the process.

20
21 *(Subd (d) amended effective January 1, 2003.)*

22
23 (e) **[Scope of evaluations]** All evaluations must include:

24
25 (1) A written explanation of the process that clearly describes the:

26
27 (A) Purpose of the evaluation;

28
29 (B) Procedures used and the time required to gather and assess
30 information and, if psychological tests will be used, the role of the
31 results in confirming or questioning other information or previous
32 conclusions;

33
34 (C) Scope and distribution of the evaluation report;

35
36 (D) Limitations on the confidentiality of the process; and

37
38 (E) Cost and payment responsibility for the evaluation.

39
40 (2) Data collection and analysis that allow the evaluator to observe and
41 consider each party in comparable ways and to substantiate (from
42 multiple sources when possible) interpretations and conclusions regarding
43 each child's developmental needs; the quality of attachment to each

parent and that parent's social environment; and reactions to the separation, divorce, or parental conflict. This process may include but is not limited to:

- (A) Reviewing pertinent documents related to custody, including local police records;
- (B) Observing parent-child interaction (unless contraindicated to protect the best interest of the child);
- (C) Interviewing parents conjointly, individually, or both conjointly and individually (unless contraindicated in cases involving domestic violence), to assess:
 - (i) Capacity for setting age-appropriate limits and for understanding and responding to the child's needs;
 - (ii) History of involvement in caring for the child;
 - (iii) Methods for working toward resolution of the child custody conflict;
 - (iv) History of child abuse, domestic violence, substance abuse, and psychiatric illness; and
 - (v) Psychological and social functioning;
- (D) Conducting age-appropriate interviews and observation with the children, both parents, stepparents, step- and half-siblings conjointly, separately, or both conjointly and separately, unless contraindicated to protect the best interest of the child;
- (E) Collecting relevant corroborating information or documents as permitted by law; and
- (F) Consulting with other experts to develop information that is beyond the evaluator's scope of practice or area of expertise.

- (3) A written or oral presentation of findings that is consistent with Family Code section 3111 or Evidence Code section 730. In any presentation of findings, the evaluator must:

- (A) Summarize the data-gathering procedures, information sources, and time spent, and present all relevant information, including information that does not support the conclusions reached;
- (B) Describe any limitations in the evaluation that result from unobtainable information, failure of a party to cooperate, or the circumstances of particular interviews;
- (C) Only make a custody or visitation recommendation for a party who has been evaluated. This requirement does not preclude the evaluator from making an interim recommendation that is in the best interest of the child; and
- (D) Provide clear, detailed recommendations that are consistent with the health, safety, welfare, and best interest of the child if making any recommendations to the court regarding a parenting plan.

(Subd (e) amended effective January 1, 2003.)

(f) [Cooperation with professionals in another jurisdiction] When one party resides in another jurisdiction, the custody evaluator may rely on another qualified neutral professional for assistance in gathering information. In order to ensure a thorough and comparably reliable out-of-jurisdiction evaluation, the evaluator must:

- (1) Make a written request that includes, as appropriate:
 - (A) A copy of all relevant court orders;
 - (B) An outline of issues to be explored;
 - (C) A list of the individuals who must or may be contacted;
 - (D) A description of the necessary structure and setting for interviews;
 - (E) A statement as to whether a home visit is required;
 - (F) A request for relevant documents such as police records, school reports, or other document review; and
 - (G) A request that a written report be returned only to the evaluator and that no copies of the report be distributed to parties or attorneys;

1 (2) Provide instructions that limit the out-of-jurisdiction report to factual
2 matters and behavioral observations rather than recommendations
3 regarding the overall custody plan; and
4

5 (3) Attach and discuss the report provided by the professional in another
6 jurisdiction in the evaluator's final report.
7

8 *(Subd (f) amended effective January 1, 2003.)*
9

10 **(g) [Requirements for evaluator qualifications, training, continuing education,**
11 **and experience]** All child custody evaluators must meet the qualifications,
12 training, and continuing education requirements specified in Family Code
13 sections 1815, 1816, and 3111, and rule 5.430.
14

15 *(Subd (g) amended effective January 1, 2003; previously amended effective July 1, 1999.)*
16

17 **(h) [Ethics]** In performing an evaluation, the child custody evaluator must:
18

19 (1) Maintain objectivity, provide and gather balanced information for both
20 parties, and control for bias;
21

22 (2) Protect the confidentiality of the parties and children in collateral contacts
23 and not release information about the case to any individual except as
24 authorized by the court or statute;
25

26 (3) Not offer any recommendations about a party unless that party has been
27 evaluated directly or in consultation with another qualified neutral
28 professional;
29

30 (4) Consider the health, safety, welfare, and best interest of the child in all
31 phases of the process, including interviews with parents, extended family
32 members, counsel for the child, and other interested parties or collateral
33 contacts;
34

35 (5) Strive to maintain the confidential relationship between the child who is
36 the subject of an evaluation and his or her treating psychotherapist;
37

38 (6) Operate within the limits of the evaluator's training and experience and
39 disclose any limitations or bias that would affect the evaluator's ability to
40 conduct the evaluation;
41

42 (7) Not pressure children to state a custodial preference;
43

- 1 (8) Inform the parties of the evaluator's reporting requirements, including, but
2 not limited to, suspected child abuse and neglect and threats to harm one's
3 self or another person;
4
5 (9) Not disclose any recommendations to the parties, their attorneys, or the
6 attorney for the child before having gathered the information necessary to
7 support the conclusion;
8
9 (10) Disclose to the court, parties, attorney for a party, and attorney for the
10 child conflicts of interest or dual relationships; and not accept any
11 appointment except by court order or the parties' stipulation; and
12
13 (11) Be sensitive to the socioeconomic, gender, race, ethnicity, cultural values,
14 religious, family structures, and developmental characteristics of the
15 parties.
16

17 *(Subd (h) amended effective January 1, 2003.)*
18

- 19 (i) **[Cost-effective procedures for cross-examination of evaluators]** Each local
20 court must develop procedures for expeditious and cost-effective cross-
21 examination of evaluators, including, but not limited to, consideration of the
22 following:
23

- 24 (1) Videoconferences;
25
26 (2) Telephone conferences;
27
28 (3) Audio or video examination; and
29
30 (4) Scheduling of appearances.
31

32 *(Subd (i) amended effective January 1, 2003.)*
33

34 *Rule 5.420 amended effective January 1, 2003; adopted as rule 1257.3 effective January 1,*
35 *1999; previously amended effective July 1, 1999.*
36

37 **Rule 5.430. Domestic violence training standards for court-appointed child custody**
38 **investigators and evaluators**
39

- 40 (a) **[Authority]** This rule of court is adopted under article VI, section 6 of the
41 California Constitution and Family Code sections 211 and 3111(d) and (e).
42

1 (b) **[Purpose]** Consistent with Family Code sections 3020 and 3111, the purposes
2 of this rule are to require domestic violence training for all court-appointed
3 persons who evaluate or investigate child custody matters and to ensure that
4 this training reflects current research and consensus about best practices for
5 conducting child custody evaluations by prescribing standards that training in
6 domestic violence must meet. Effective January 1, 1998, no person may be a
7 court-appointed investigator under Family Code section 3111(d) or Evidence
8 Code section 730 unless the person has completed domestic violence training
9 described here and in Family Code section 1816.

10
11 *(Subd (b) amended effective January 1, 2003.)*
12

13 (c) **[Definitions]** For purposes of this rule, “court-appointed investigator” is
14 considered to be synonymous with “court-appointed evaluator” as defined in
15 Family Code section 3110.
16

17 (d) **[Mandatory training]** Persons appointed as child custody investigators under
18 Family Code section 3110 or Evidence Code section 730, and persons who are
19 professional staff or trainees in a child custody or visitation evaluation or
20 investigation, must complete basic training in domestic violence issues as
21 described in Family Code section 1816 and in addition:
22

23 (1) *(Advanced training)* Sixteen hours of advanced training must be
24 completed within a 12-month period. These 16 hours must include:
25

26 (A) Twelve hours of in-person classroom instruction in:
27

28 (i) The appropriate structuring of the child custody evaluation
29 process, including, but not limited to, maximizing safety for
30 clients, evaluators, and court personnel; maintaining objectivity;
31 providing and gathering balanced information from both parties
32 and controlling for bias; providing for separate sessions at
33 separate times (as specified in Family Code section 3113); and
34 considering the impact of the evaluation report and
35 recommendations with particular attention to the dynamics of
36 domestic violence;
37

38 (ii) The relevant sections of local, state, and federal law or rules;
39

40 (iii) The range, availability, and applicability of domestic violence
41 resources available to victims, including, but not limited to,
42 battered women’s shelters, specialized counseling, drug and

1 alcohol counseling, legal advocacy, job training, parenting
2 classes, battered immigrant victims, and welfare exceptions for
3 domestic violence victims;
4

5 (iv) The range, availability, and applicability of domestic violence
6 intervention available to perpetrators, including, but not limited
7 to, arrest, incarceration, probation, applicable Penal Code
8 sections (including Penal Code section 1203.097, which
9 describes certified treatment programs for batterers), drug and
10 alcohol counseling, legal advocacy, job training, and parenting
11 classes; and
12

13 (v) The unique issues in family and psychological assessment in
14 domestic violence cases, including the following concepts:
15

- 16 a. The effects of exposure to domestic violence and
17 psychological trauma on children; the relationship
18 between child physical abuse, child sexual abuse, and
19 domestic violence; the differential family dynamics related
20 to parent-child attachments in families with domestic
21 violence; intergenerational transmission of familial
22 violence; and manifestations of post-traumatic stress
23 disorders in children;
24
- 25 b. The nature and extent of domestic violence, and the
26 relationship of gender, class, race, culture, and sexual
27 orientation to domestic violence;
28
- 29 c. Current legal, psychosocial, public policy, and mental
30 health research related to the dynamics of family violence,
31 the impact of victimization, the psychology of
32 perpetration, and the dynamics of power and control in
33 battering relationships;
34
- 35 d. The assessment of family history based on the type,
36 severity, and frequency of violence;
37
- 38 e. The impact on parenting abilities of being a victim or
39 perpetrator of domestic violence;
40

- f. The uses and limitations of psychological testing and psychiatric diagnosis in assessing parenting abilities in domestic violence cases;
- g. The influence of alcohol and drug use and abuse on the incidence of domestic violence;
- h. Understanding the dynamics of high-conflict relationships and abuser/victim relationships;
- i. The importance of, and procedures for, obtaining collateral information from probation departments, children's protective services, police incident reports, restraining order pleadings, medical records, schools, and other relevant sources; and
- j. Accepted methods for structuring safe and enforceable child custody and parenting plans that assure the health, safety, welfare, and best interest of the child, and safeguards for the parties.

(B) Four hours of community resource networking intended to acquaint the evaluator with domestic violence resources in the geographical communities where the families being evaluated may reside.

- (2) (*Annual update training*) Four hours of update training are required each year after the year in which the advanced training is completed. These four hours must consist of in-person classroom instruction focused on, but not limited to, an update of changes or modifications in local court practices, case law, and state and federal legislation related to domestic violence, and an update of current social science research and theory, particularly in regard to the impact on children of exposure to domestic violence.

(*Subd (d) amended effective January 1, 2003.*)

- (e) **[Domestic violence training providers]** Eligible providers may include educational institutions, professional associations, professional continuing education groups, public or private for-profit or not-for-profit groups, and court-connected groups.
- (f) **[Certificate of course completion]** Domestic violence training providers must distribute a certificate of completion to each person who has attended the

1 initial 12-hour in-person classroom instruction and to each person who has
2 attended the annual 4-hour update training in domestic violence for child
3 custody evaluators. The certificate of completion serve must document (or
4 state) the number of hours of training offered, the number of hours the person
5 attended, the date(s) of the training, and the name of the training provider.

6
7 *(Subd (f) amended effective January 1, 2003.)*
8

9 **(g) [Local court rules]** Each local court may adopt rules regarding the procedures
10 by which child custody evaluators that have completed the training in domestic
11 violence as mandated by this rule will notify the local court. In the absence of
12 such a local rule of court, child custody evaluators must attach copies of their
13 certificates of completion of the initial 12 hours of advanced in-person
14 classroom instruction and of the most recent annual 4-hour update training in
15 domestic violence to each child custody evaluation report.

16
17 *(Subd (g) amended effective January 1, 2003.)*
18

19 **(h) [Previous training accepted]** Persons attending training programs offered after
20 January 1, 1996, that meet all of the requirements set forth in subdivision
21 (d)(1)(A) of this rule, are deemed to have met the minimum standards set forth
22 in subdivision (d)(1)(A) of this rule, but they must still meet the minimum
23 standards listed in subdivisions (d)(1)(B) and (d)(2) of this rule.

24
25 *Rule 5.430 amended and renumbered effective January 1, 2003; adopted as rule 1257.7 effective*
26 *January 1, 1999.*
27
28

29 **CHAPTER 5.0. Child and Spousal Support**

30 Title Five, Special Rules for Trial Courts—Division Ia, Family Law Rules—Chapter 5.0, Child
31 and Spousal Support; adopted effective December 1, 1993.

32 **Rule 5.520. Standards for computer software to assist in determining support**

33

34 **(a) [Authority]** This rule is adopted under Family Code section 3830 and article
35 VI, section 6 of the California Constitution.

36
37 **(b) [Standards]** The standards for computer software to assist in determining the
38 appropriate amount of child or spousal support are:

39
40 (1) The software must accurately compute the net disposable income of each
41 parent as follows:

- (A) Permit entry of the “gross income” of each parent as defined by Family Code section 4058;
 - (B) Either accurately compute the state and federal income tax liability under Family Code section 4059(a) or permit the entry of a figure for this amount; this figure, in the default state of the program, must not include the tax consequences of any spousal support to be ordered;
 - (C) Ensure that any deduction for contributions to the Federal Insurance Contributions Act or as otherwise permitted by Family Code section 4059(b) does not exceed the allowable amount;
 - (D) Permit the entry of deductions authorized by Family Code sections 4059(c) through (f); and
 - (E) Permit the entry of deductions authorized by Family Code section 4059(g) [Hardship] while ensuring that any deduction subject to the limitation in Family Code section 4071(b) does not exceed that limitation.
- (2) Using examples provided by the Judicial Council, the software must calculate a child support amount, using its default settings, that is accurate to within 1 percent of the correct amount. In making this determination, the Judicial Council must calculate the correct amount of support for each example and must then calculate the amount for each example using the software program. Each person seeking certification of software must supply a copy of the software to the Judicial Council. If the software does not operate on a standard Windows 95 or later compatible or Macintosh computer, the person seeking certification of the software must make available to the Judicial Council any hardware required to use the software. The Judicial Council may delegate the responsibility for the calculation and determinations required by this rule.
- (3) The software must contain, either on the screen or in written form, a glossary defining each term used on the computer screen or in printed hard copy produced by the software.
- (4) The software must contain, either on the screen or in written form, instructions for the entry of each figure that is required for computation of

1 child support using the default setting of the software. These instructions
2 must include but not be limited to the following:

3
4 (A) The gross income of each party as provided for by Family Code
5 section 4058;

6
7 (B) The deductions from gross income of each party as provided for
8 by Family Code section 4059 and subdivision (b)(1) of this
9 rule;

10
11 (C) The additional items of child support provided for in Family
12 Code section 4062; and

13
14 (D) The following factors rebutting the presumptive guideline
15 amount: Family Code section 4057(b)(2) [Deferred sale of
16 residence] and 4057(b)(3) [Income of subsequent partner].
17

18 (5) In making an allocation of the additional items of child support under
19 subdivision (b)(4)(C) of this rule, the software must, as its default setting,
20 allocate the expenses one-half to each parent. The software must also
21 provide, in an easily selected option, the alternative allocation of the
22 expenses as provided for by Family Code section 4061(b).
23

24 (6) The software or a license to use the software must be available to persons
25 without restriction based on profession or occupation.
26

27 (7) The sale or donation of software or a license to use the software to a court
28 or a judicial officer must include a license, without additional charge, to the
29 court or judicial officer to permit an additional copy of the software to be
30 installed on a computer to be made available by the court or judicial officer
31 to members of the public.
32

33 *(Subd (b) amended effective January 1, 2003.)*
34

35 (c) **[Expiration of certification]** Any certification provided by the Judicial
36 Council under Family Code section 3830 and this rule must expire one year
37 from the date of its issuance unless another expiration date is set forth in the
38 certification. The Judicial Council may provide for earlier expiration of a
39 certification if (1) the provisions involving the calculation of tax consequences
40 change or (2) other provisions involving the calculation of support change.
41

42 *(Subd (c) amended effective January 1, 2003.)*
43

1 **(d) [Statement of certified public accountant]** If the software computes the state
2 and federal income tax liability as provided in subdivision (b)(1)(B) of this
3 rule, the application for certification, whether for original certification or for
4 renewal, must be accompanied by a statement from a certified public
5 accountant that

- 6
- 7 (1) The accountant is familiar with the operation of the software;
- 8
- 9 (2) The accountant has carefully examined, in a variety of situations, the
10 operation of the software in regard to the computation of tax liability;
- 11
- 12 (3) In the opinion of the accountant the software accurately calculates the
13 estimated actual state and federal income tax liability consistent with
14 Internal Revenue Service and Franchise Tax Board procedures;
- 15
- 16 (4) In the opinion of the accountant the software accurately calculates the
17 deductions under the Federal Insurance Contributions Act (FICA),
18 including the amount for social security and for Medicare, and the
19 deductions for California State Disability Insurance and properly
20 annualizes these amounts; and
- 21 (5) States which calendar year the statement includes and must clearly
22 indicates any limitations on the statement. The Judicial Council may
23 request a new statement as often as it determines necessary to ensure
24 accuracy of the tax computation.
- 25

26 *(Subd (d) amended effective January 1, 2003.)*

27

28 **(e) [Renewal of certification]** At least three months prior to the expiration of a
29 certification, a person may apply for renewal of the certification. The renewal
30 must include a statement of any changes made to the software since the last
31 application for certification. Upon request, the Judicial Council will keep the
32 information concerning changes confidential.

33

34 *(Subd (e) amended effective January 1, 2003.)*

35

36 **(f) [Modifications to the software]** The certification issued by the Judicial
37 Council under Family Code section 3830 and this rule imposes a duty upon the
38 person applying for the certification to promptly notify the Judicial Council of
39 all changes made to the software during the period of certification. Upon
40 request, the Judicial Council will keep the information concerning changes
41 confidential. The Judicial Council may, after receipt of information concerning
42 changes, require that the software be recertified under this rule.

43

1 (g) **[Definitions]** As used in this rule:

2
3 (1) “Default settings” refers to the status in which the software first starts
4 when it is installed on a computer system. The software may permit the
5 default settings to be changed by the user, either on a temporary or a
6 permanent basis, if (1) the user is permitted to change the settings back to
7 the default without reinstalling the software, (2) the computer screen
8 prominently indicates whether the software is set to the default settings,
9 and (3) any printout from the software prominently indicates whether the
10 software is set to the default settings.

11
12 (2) “Contains” means, with reference to software, that the material is either
13 displayed by the program code itself or is found in written documents
14 supplied with the software.
15

16 (h) **[Explanation of discrepancies]** Before the Judicial Council denies a certificate
17 because of failure to comply with the standards in paragraph (b)(1) or (b)(2) of
18 this rule, the Judicial Council may request the person seeking certification to
19 explain the differences in results.
20

21 (i) **[Application]** An application for certification must be on a form supplied by
22 the Judicial Council and must be accompanied by an application fee of \$250.
23

24 *(Subd (i) amended effective January 1, 2003.)*
25

26 (j) **[Acceptability in the courts]** All courts must permit parties or attorneys to use
27 any software certified by the Judicial Council under this rule.
28

29 *(Subd (j) relettered effective January 1, 2003; adopted as subd (k) effective January 1,*
30 *2000.)*
31

32 *Rule 5.520 amended and renumbered effective January 1, 2003; adopted as rule 1258 effective*
33 *December 1, 1993; previously amended effective January 1, 2000.*
34

35 **2002 Note:** Forms previously numbered 1281 et seq. have been renumbered starting with FL-100.

36 **CHAPTER 6.0 Rules for Title IV-D Support Actions**

37 Adopted effective July 1, 1997; amended and renumbered January 1, 2003.

38
39 ***Rule 5.600. Purpose, authority, and definitions***

1 *Rule 5.605. Hearing of matters by a judge under Family Code sections 4251(a) and*
2 *4252(b)(7)*

3 *Rule 5.610. Use of existing family law forms*

4 *Rule 5.615. Memorandum of points and authorities*

5 *Rule 5.620. Attorney of record in support actions under Title IV-D of the Social*
6 *Security Act*

7 *Rule 5.625. Procedures for clerk's handling of combined summons and complaint*

8 *Rule 5.630. Procedures for child support case registry form*

9 *Rule 5.635. Procedures for hearings on interstate income withholding orders*

10 *Rule 5.640. Judicial education for child support commissioners*

11 *Rule 5.650. Procedures for hearings to set aside voluntary declarations of paternity*
12 *when no previous action has been filed*

13 *Rule 5.655. Minimum standards of training for court clerk staff whose assignment*
14 *includes Title IV-D child support cases*

15 *Rule 5.660. Appearance by local child support agency*

16 *Rule 5.665. Procedure for consolidation of child support orders*

17 *Rule 5.670. Party designation in interstate and intrastate cases*

18 *Rule 5.675. Procedure for a support obligor to file a motion regarding mistaken*
19 *identity*

20
21 **Rule 5.600. Purpose, authority, and definitions**
22

23 (a) **[Purpose]** The rules in this chapter are adopted to provide practice and
24 procedure for support actions under Title IV-D of the Social Security Act and
25 under California statutory provisions concerning these actions.
26

27 (b) **[Authority]** These rules are adopted under article VI, section 6 of the
28 California Constitution and Family Code sections 211, 3680(b), 4251(a),
29 4252(b), 10010, 17404, 17432, and 17400.
30

31 *(Subd (b) amended effective January 1, 2003.)*
32

33 (c) **[Definitions]** As used in these rules, unless the context requires otherwise,
34 "Title IV-D support action" refers to an action for child or family support that
35 is brought by or otherwise involves the local child support agency under Title
36 IV-D of the Social Security Act.
37

38 *(Subd (c) amended effective January 1, 2003.)*
39

40 *Rule 5.600 amended and renumbered effective January 1, 2003; adopted as rule 1280 adopted*
41 *effective July 1, 1997.*
42

1 **Rule 5.605. Hearing of matters by a judge under Family Code sections 4251(a) and**
2 **4252(b)(7)**

3
4 (a) **[Exceptional circumstances]** The exceptional circumstances under which a
5 judge may hear a Title IV-D support action include:

- 6
7 (1) The failure of the judge to hear the action would result in significant
8 prejudice or delay to a party including, but not limited to, added cost or
9 loss of work time.
10
11 (2) Transferring the matter to a commissioner would result in undue
12 consumption of court time.
13
14 (3) Physical impossibility or difficulty due to the commissioner being
15 geographically separate from the judge presently hearing the matter.
16
17 (4) The absence of the commissioner from the county due to illness,
18 disability, death, or vacation.
19
20 (5) The absence of the commissioner from the county due to service in
21 another county and the difficulty of travel to the county in which the
22 matter is pending.
23

24 (b) **[Duty of judge hearing matter]** A judge hearing a Title IV-D support action
25 under this rule and Family Code sections 4251(a) and 4252(b)(7) must make an
26 interim order and refer the matter to the commissioner for further proceedings.
27

28 *(Subd (b) amended effective January 1, 2003.)*
29

30 (c) **[Discretion of the court]** Notwithstanding sections (a) and (b) of this rule, a
31 judge may, in the interests of justice, transfer a case to a commissioner for
32 hearing.
33

34 *Rule 5.605 amended and renumbered effective January 1, 2003; adopted as rule 1280.1 effective*
35 *July 1, 1997.*
36

37 **Rule 5.610. Use of existing family law forms**
38

39 When an existing family law form is required or appropriate for use in a Title IV-D
40 support action, the form may be used notwithstanding the absence of a notation for
41 the other parent as a party under Family Code section 17404. The caption of the
42 form must be modified by the person filing it by adding the words "Other parent:"
43 and the name of the other parent to the form.

1
2 *Rule 5.610 amended and renumbered effective January 1, 2003; adopted as rule 1280.2 effective*
3 *July 1, 1997.*
4

5 **Rule 5.615. Memorandum of points and authorities**
6

7 Notwithstanding any other rule, including rule 313, a notice of motion in a Title IV-
8 D support action must not be required to contain points and authorities if the notice
9 of motion uses a form adopted or approved by the Judicial Council. The absence of
10 points and authorities under these circumstances may not be construed by the court
11 as an admission that the motion is not meritorious and cause for its denial.
12

13 *Rule 5.615 amended and renumbered effective January 1, 2003; adopted as rule 1280.3 effective*
14 *July 1, 1997.*
15

16 **Rule 5.620. Attorney of record in support actions under Title IV-D of the Social**
17 **Security Act**
18

19 The attorney of record on behalf of a local child support agency appearing in any
20 action under Title IV-D of the Social Security Act is the director of the local child
21 support agency, or if the director of that agency is not an attorney, the senior
22 attorney of that agency or an attorney designated by the director for that purpose.
23 Notwithstanding any other rule, including but not limited to rule 201(e), the name,
24 address, and telephone number of the county child support agency and the name of
25 the attorney of record is sufficient for any papers filed by the child support agency.
26 The name of the deputy or assistant district attorney or attorney of the child support
27 agency, who is not attorney of record, and the State Bar number of the attorney of
28 record or any of his or her assistants is not required.
29

30 *Rule 5.620 amended and renumbered effective January 1, 2003; adopted as rule 1280.4 effective*
31 *July 1, 1997; previously amended effective January 1, 2001.*
32

33 **Rule 5.625. Procedures for clerk's handling of combined summons and complaint**
34

35 (a) **[Purpose]** This rule provides guidance to court clerks in processing and filing
36 the Judicial Council combined form *Summons and Complaint or Supplemental*
37 *Complaint Regarding Parental Obligations (Governmental)* (form FL-600) for
38 actions under Family Code section 17400 or 17404.
39

40 *(Subd (a) amended effective January 1, 2003.)*
41

42 (b) **[Filing of complaint and issuance of summons]** The clerk must accept the
43 *Summons and Complaint or Supplemental Complaint Regarding Parental*

1 *Obligations (Governmental)* (form FL-600) for filing under Code of Civil
2 Procedure section 411.10. The clerk must issue the original summons in
3 accordance with Code of Civil Procedure section 412.20 by filing the original
4 form FL-600 and affixing the seal of the court. The original form FL-600
5 must be retained in the court's file.

6
7 *(Subd (b) amended effective January 1, 2003.)*
8

- 9 **(c) [Issuance of copies of combined summons and complaint]** Upon issuance of
10 the original summons, the clerk must conform copies of the filed form FL-600
11 to reflect that the complaint has been filed and the summons has been issued. A
12 copy of form FL-600 so conformed must be served on the defendant in
13 accordance with Code of Civil Procedure section 415.10 et seq.

14
15 *(Subd (c) amended effective January 1, 2003.)*
16

- 17 **(d) [Proof of service of summons]** Proof of service of the *Summons and*
18 *Complaint or Supplemental Complaint Regarding Parental Obligations*
19 *(Governmental)* (form FL-600) must be on the form prescribed by rule 982.9
20 or any other proof of service form that meets the requirements of Code of Civil
21 Procedure section 417.10.

22
23 *(Subd (d) amended effective January 1, 2003.)*
24

- 25 **(e) [Filing of proposed judgment and amended proposed judgment]** The proposed
26 judgment must be an attachment to the form FL-600 *Summons and Complaint or*
27 *Supplemental Complaint Regarding Parental Obligations (Governmental)* and
28 must not be file-endorsed separately. An amended proposed judgment submitted
29 for filing must be attached to the declaration for amended proposed judgment per
30 form FL-616, as required by Family Code section 17430(c), and a proof of
31 service by mail, if appropriate. Upon filing, the declaration for amended
32 proposed judgment may be file-endorsed. The amended proposed judgment must
33 not be file-endorsed.

34
35 *(Subd (e) amended effective January 1, 2003.)*
36

37 *Rule 5.625 amended and renumbered effective January 1, 2003; adopted as rule 1280.5 effective*
38 *July 1, 1998.*
39

40 **Rule 5.630. Procedures for child support case registry form**

- 41
42 **(a) [Purpose]** This rule provides guidance to court clerks in processing the Judicial
43 Council *Child Support Case Registry Form (Family Law)* (form FL-191).
44

1 (Subd (a) amended effective January 1, 2003.)
2

- 3 (b) **[Application]** This rule applies to any action or proceeding in which there is an
4 order for child support or family support except for cases in which the local
5 child support agency provides support enforcement services under Family
6 Code section 17400. This rule does not apply to cases in which the local child
7 support agency provides support enforcement services under Family Code
8 section 17400.
9

10 (Subd (b) amended effective January 1, 2003.)
11

- 12 (c) **[Requirement that form be filed]** The court must require that a *Child Support*
13 *Case Registry Form (Family Law)* (form FL-191), completed by one of the
14 parties, be filed each time an initial court order for child support or family
15 support or a modification of a court order for child support or family support is
16 filed with the court. A party attempting to file an initial judgment or order for
17 child support or family support or a modification of an order for child or
18 family support without a completed *Child Support Case Registry Form*
19 *(Family Law)* (form FL-191), must be given a blank form to complete. The
20 form must be accepted if legibly handwritten in ink or typed. No filing fees
21 may be charged for filing the form.
22

23 (Subd (c) amended effective January 1, 2003.)
24

- 25 (d) **[Distribution of the form]** Copies of the *Child Support Case Registry Form*
26 *(Family Law)* (form FL-191) must be made available by the clerk's office and
27 the family law facilitator's office to the parties without cost. A blank copy of
28 the *Child Support Case Registry Form (Family Law)* (form FL-191) must be
29 sent with the notice of entry of judgment to the party who did not submit the
30 judgment or order.
31

32 (Subd (d) amended effective January 1, 2003.)
33

- 34 (e) **[Items on form that must be completed]** A form must be considered complete
35 if items 1b, 1c, 2, 5, and 6 are completed. Either item 3 or item 4 must also be
36 completed as appropriate. If the form is submitted with the judgment or order
37 for court approval, the clerk must complete item 1a once the judgment or order
38 has been signed by the judicial officer and filed.
39

40 (Subd (e) amended effective January 1, 2003.)
41

- 42 (f) **[Clerk handling of form]** The completed *Child Support Case Registry Form*
43 *(Family Law)* (form FL-191) must not be stored in the court's file. It should be

1 date and time stamped when received and stored in an area to which the public
2 does not have access. At least once per month all forms received must be
3 mailed to the California Department of Social Services.
4

5 *(Subd (f) amended effective January 1, 2003.)*
6

- 7 **(g) [Storage of confidential information]** Provided that all information is kept
8 confidential, the court may keep either a copy of the form or the information
9 provided on the form in an electronic format.
10

11 *Rule 5.630 amended and renumbered effective January 1, 2003; adopted as rule effective July 1,*
12 *1999.*
13

14 **Rule 5.635. Procedures for hearings on interstate income withholding orders**
15

- 16 **(a) [Purpose]** This rule provides a procedure for a hearing under Family Code
17 section 4945 in response to an income withholding order.
18
- 19 **(b) [Filing of request for hearing]** A support obligor may contest the validity or
20 enforcement of an income withholding order by filing a completed request for
21 hearing. A copy of the income withholding order must be attached.
22
- 23 **(c) [Filing fee]** The court must not require a filing fee to file the request for
24 hearing under this rule.
25
- 26 *(Subd (c) amended effective January 1, 2003.)*
27
- 28 **(d) [Creation of court file]** Upon receipt of the completed request for hearing and
29 a copy of the income withholding order, the clerk must assign a case number
30 and schedule a court date. The court date must be no earlier than 30 days from
31 the date of filing and no later than 45 days from the date of filing.
32

33 *(Subd (d) amended effective January 1, 2003.)*
34

- 35 **(e) [Notice of hearing]** The support obligor must provide the clerk with envelopes
36 addressed to the obligor, the support enforcement agency that sent the income
37 withholding order, and the obligor's employer. The support obligor must also
38 provide an envelope addressed to the person or agency designated to receive
39 the support payments if that person or agency is different than the support
40 enforcement agency that sent the income withholding order. The support
41 obligor must provide sufficient postage to mail each envelope provided. Upon
42 scheduling the hearing, the clerk must mail a copy of the request for hearing in
43 each envelope provided by the support obligor.

1
2 (Subd (e) amended effective January 1, 2003.)
3

- 4 (f) **[Use of court file in subsequent proceedings]** Any subsequent proceedings
5 filed in the same court that involve the same parties and are filed under the
6 Uniform Interstate Family Support Act (UIFSA) must utilize the file number
7 created under this rule.
8

9 (Subd (f) amended effective January 1, 2003.)
10

- 11 (g) **[Definitions]** As used in this rule:
12

- 13 (1) An “income withholding order” is the *Order/Notice to Withhold Income*
14 *for Child Support* (see form FL-195) issued by a child support
15 enforcement agency in another state.
16
17 (2) A “request for hearing” is the *Request for Hearing Regarding Wage and*
18 *Earnings Assignment (Family Law—Governmental—UIFSA)* (see form
19 FL-450).
20

21 (Subd (g) amended effective January 1, 2003.)
22

23 *Rule 5.635 amended and renumbered effective January 1, 2003; adopted as rule 1280.7 effective*
24 *July 1, 1999.*
25

26 **Rule 5.640. Judicial education for child support commissioners** 27

28 Every commissioner whose principal judicial assignment is to hear child support
29 matters must attend the following judicial education programs:
30

- 31 (a) **[Basic child support law education]** Within six months of beginning an
32 assignment as a child support commissioner, the judicial officer must attend a
33 basic educational program on California child support law and procedure
34 designed primarily for judicial officers. The training program must include
35 instruction on both state and federal laws concerning child support. A judicial
36 officer who has completed the basic educational program need not attend the
37 basic educational program again.
38

39 (Subd (a) amended effective January 1, 2003.)
40

- 41 (b) **[Continuing education]** The judicial officer must attend an update on new
42 developments in child support law and procedure at least once each calendar
43 year.
44

1 (Subd (b) amended effective January 1, 2003.)
2

3 (c) **[Other child support education]** To the extent that judicial time and resources
4 are available, the judicial officer is encouraged to attend additional educational
5 programs on child support and other related family law issues.
6

7 (d) **[Other judicial education]** The requirements of this rule are in addition to and
8 not in lieu of the requirements of rule 970(e).
9

10 Rule 5.640 amended and renumbered effective January 1, 2003; adopted as rule 1280.8
11 effective July 1, 1999.
12

13 **Rule 5.650. Procedures for hearings to set aside voluntary declarations of paternity**
14 **when no previous action has been filed**
15

16 (a) **[Purpose]** This rule provides a procedure for a hearing to set aside a voluntary
17 declaration of paternity under Family Code section 7575(c).
18

19 (b) **[Filing of request for hearing]** A person who has signed a voluntary
20 declaration of paternity may ask that the declaration be set aside by filing a
21 completed *Request for Hearing and Application to Set Aside Voluntary*
22 *Declaration of Paternity* (form FL-280).
23

24 (subd (b) amended effective January 1, 2003.)
25

26 (c) **[Creation of court file]** Upon receipt of the completed request for hearing, the
27 clerk must assign a case number and schedule a court date. The court date must
28 be no earlier than 31 days after the date of filing and no later than 45 days after
29 the date of filing.
30

31 (subd (c) amended effective January 1, 2003.)
32

33 (d) **[Notice of hearing]** The person who is asking that the voluntary declaration of
34 paternity be set aside must serve, either by personal service or by mail, the
35 request for hearing and a blank *Responsive Declaration to Application to Set*
36 *Aside Voluntary Declaration of Paternity* (form FL-285) on the other person
37 who signed the voluntary declaration of paternity. If the local child support
38 agency is providing services in the case, the person requesting the set aside
39 must also serve a copy of the request for hearing on the agency.
40

41 (subd (d) amended effective January 1, 2003.)
42

1 (e) **[Order after hearing]** The decision of the court must be written on the *Order*
2 *After Hearing on Motion to Set Aside Voluntary Declaration of Paternity* (form
3 FL-290). If the voluntary declaration of paternity is set aside, the clerk must
4 mail a copy of the order to the Department of Child Support Services in order
5 that the voluntary declaration of paternity be purged from the records.
6

7 (subd (e) amended effective January 1, 2003.)
8

9 (f) **[Use of court file in subsequent proceedings]** Pleadings in any subsequent
10 proceedings, including but not limited to proceedings under the Uniform
11 Parentage Act, that involve the parties and child named in the voluntary
12 declaration of paternity must be filed in the court file that was initiated by the
13 filing of the *Request for Hearing and Application to Set Aside Voluntary*
14 *Declaration of Paternity* (form FL-280).
15

16 (subd (f) amended effective January 1, 2003.)
17

18 *Rule 5.650 amended and renumbered effective January 1, 2003; adopted as rule 1280.10*
19 *effective July 1, 2000.*
20

21 **Rule 5.655. Minimum standards of training for court clerk staff whose assignment**
22 **includes Title IV-D child support cases**
23

24 Any court clerk whose assignment includes Title IV-D child support cases must
25 participate in a minimum of six hours of continuing education annually in federal
26 and state laws concerning child support and related issues.
27

28 *Rule 5.655 amended and renumbered effective January 1, 2003; adopted as rule 1280.11*
29 *effective July 1, 2000.*
30

31 **Rule 5.660. Appearance by local child support agency**
32

33 When a local child support agency is providing services as required by Family Code
34 section 17400, that agency may appear in any action or proceeding that it did not
35 initiate by giving written notice to all parties, on the form titled *Notice Regarding*
36 *Payment of Support* (form FL-632), that it is providing services in that action or
37 proceeding under Title IV-D of the Social Security Act. The agency must file the
38 original of the notice in the action or proceeding with proof of service by mail on
39 the parties. Upon service and filing of the notice, the court must not require the local
40 child support agency to file any other notice or pleading before that agency appears
41 in the action or proceeding.
42

43 *Rule 5.660 amended and renumbered effective January 1, 2003; adopted as rule 1280.12*
44 *effective January 1, 2001.*

1
2 **Rule 5.665. Procedure for consolidation of child support orders**
3

- 4 (a) When an order of consolidation of actions has been made under section
5 1048(a) of the Code of Civil Procedure in cases in which a local child support
6 agency is appearing under section 17400 of the Family Code, or when a motion
7 to consolidate or combine two or more child support orders has been made
8 under section 17408 of the Family Code, the cases in which those orders were
9 entered must be consolidated as follows:

10
11 (1) **[Priority of consolidation]** The order consolidating cases that contain
12 child support orders must designate the primary court file into which the
13 support orders must be consolidated and must also designate the court
14 files that are subordinate. Absent an order upon showing of good cause,
15 the cases or child support orders must be consolidated into a single court
16 file according to the following priority, including those cases or orders
17 initiated or obtained by a local child support agency under division 17 of
18 the Family Code that are consolidated under either section 1048(a) of the
19 Code of Civil Procedure or section 17408 of the Family Code.

20
21 (i) If one of the cases or child support orders to be consolidated is in an
22 action for nullity, dissolution, or legal separation brought under
23 division 6 of the Family Code, all cases and orders so consolidated
24 must be consolidated into that action, which must be the primary file.
25

26 (ii) If none of the cases or child support orders to be consolidated is in an
27 action for nullity, dissolution, or legal separation, but one of the child
28 support orders to be consolidated has been issued in an action under
29 the Uniform Parentage Act (Fam. Code, div. 12, pt. 3), all orders so
30 consolidated must be consolidated into that action, which must be the
31 primary file.
32

33 (iii) If none of the cases or child support orders to be consolidated is in an
34 action for nullity, dissolution, or legal separation or in an action under
35 the Uniform Parentage Act, but one of the child support orders to be
36 consolidated has been issued in an action commenced by a *Petition for*
37 *Custody and Support of Minor Children* (form FL-260), all orders so
38 consolidated must be consolidated into that action, which must be the
39 primary file.
40

41 (iv) If none of the cases or child support orders to be consolidated is in an
42 action for nullity, dissolution, or legal separation or in an action under

1 the Uniform Parentage Act, the case or cases with the higher number
2 or numbers must be consolidated into the case with the lowest number,
3 which must be the primary file. Child support orders in cases brought
4 under the Domestic Violence Protection Act (Fam. Code, div. 10, pt.
5 4) or any similar law may be consolidated under this rule. However, a
6 domestic violence case must not be designated as the primary file.
7

8 *(Subd (a) amended effective January 1, 2003.)*
9

- 10 (2) **[Notice of consolidation]** Upon issuance of the consolidation order, the
11 local child support agency must prepare and file in each subordinate case
12 a *Notice of Consolidation* (form FL-920), indicating that the support
13 orders in those actions are consolidated into the primary file. The notice
14 must state the date of the consolidation, the primary file number, and the
15 case number of each of the cases so consolidated. If the local child
16 support agency was not a participant in the proceeding in which the
17 consolidation was ordered, the court must designate the party to prepare
18 and file the notice.
19

20 *(Subd (b) amended effective January 1, 2003.)*
21

- 22 (b) **[Subsequent filings in consolidated cases]** Notwithstanding any other rule,
23 including but not limited to rule 367, upon consolidation of cases with child
24 support orders, all filings in those cases, whether dealing with child support or
25 not, must occur in the primary court action and must be filed under that case,
26 caption, and number only. All further orders must be issued only in the
27 primary action, and no further orders may be issued in a subordinate court file.
28 All enforcement and modification of support orders in consolidated cases must
29 occur in the primary court action regardless in which action the order
30 originally issued.
31

32 *(Subd (c) amended effective January 1, 2003.)*
33

34 *Rule 5.665 amended and renumbered effective January 1, 2003; adopted as rule 1280.13*
35 *effective January 1, 2001.*
36

37 **Rule 5.670. Party designation in interstate and intrastate cases** 38

39 When a support action that has been initiated in another county or another state is
40 filed, transferred, or registered in a superior court of this state under the Uniform
41 Interstate Family Support Act (Fam. Code, div. 9, pt. 5, ch. 6, commencing with §
42 4900), the intercounty support enforcement provisions of the Family Code (div. 9,

1 pt. 5, ch. 8, art. 9, commencing with § 5600), or any similar law, the party
2 designations in the caption of the action in the responding court must be as follows:
3

4 **(a) [New actions initiated under the Uniform Interstate Family Support Act]**

5 The party designation in the superior court of this state, responding to new
6 actions initiated under the Uniform Interstate Family Support Act (Fam. Code,
7 div. 9, pt. 5, ch. 6, commencing with § 4900), must be the party designation
8 that appears on the first page of the Uniform Support Petition (OMB No. 0970-
9 0085) in the action.

10
11 *(Subd (a) amended effective January 1, 2003.)*
12

13 **(b) [Registered orders under the Uniform Interstate Family Support Act or**
14 **state law]** The party designation in all support actions registered for
15 enforcement or modification must be the one that appears in the original
16 (earliest) order being registered.

17
18 *(Subd (b) amended effective January 1, 2003.)*
19

20 *Rule 5.670 amended and renumbered effective January 1, 2003; adopted as rule 1280.14*
21 *effective January 1, 2001.*
22

23 **Rule 5.675. Procedure for a support obligor to file a motion regarding mistaken**
24 **identity**
25

26 **(a) [Purpose]** This rule applies to a support obligor who claims that support
27 enforcement actions have erroneously been taken against him or her by the
28 local child support agency because of a mistake in the support obligor's
29 identity. This rule sets forth the procedure for filing a motion in superior court
30 to establish the mistaken identity under Family Code section 17530 after the
31 support obligor has filed a claim of mistaken identity with the local child
32 support agency and the claim has been denied.
33

34 **(b) [Procedure for filing motion in superior court]** The support obligor's motion
35 in superior court to establish mistaken identity must be filed on form FL-310,
36 *Notice of Motion (Family Law)*, with appropriate attachments. The support
37 obligor must also file as exhibits to the notice of motion a copy of the claim of
38 mistaken identity that he or she filed with the local child support agency and a
39 copy of the local child support agency's denial of the claim.
40

41 *(Subd (b) amended effective January 1, 2003.)*
42

1 *Rule 5.675 amended and renumbered effective January 1, 2003; adopted as rule 1280.15*
2 *effective January 1, 2001.*

3 4 **Chapter 10. Miscellaneous Rules**

5
6 Title Five, Special Rules for Trial Courts—Division Ia, Family Law Rules—Chapter 10,
7 Miscellaneous Rules.

8 9 **Rule 5.1000. Postadoption contact agreement**

10
11 **(a) [Applicability of rule (Fam. Code, §§ 8714, 8714.5, 8714.7; Welf. & Inst.**
12 **Code, §§ 358.1, 366.26)]** This rule applies to any adoption of a child. The
13 adoption petition must be filed under Family Code sections 8714 and 8714.5.
14 If the child is a dependent of the juvenile court, the adoption petition may be
15 filed in that juvenile court and the clerk must open a confidential adoption file
16 for the child, and this file must be separate and apart from the dependency file,
17 with an adoption case number different from the dependency case number. For
18 the purposes of this rule, a “relative” is defined as follows:

- 19
20 (1) An adult related to the child or the child’s sibling or half-sibling by blood
21 or affinity, including a relative whose status is preceded by the word
22 “step,” “great,” “great-great” or “grand”; or
23
24 (2) The spouse of any of the persons described in subdivision (a)(1) even if
25 the marriage was terminated by dissolution or the death of the spouse
26 related to the child.

27
28 *(Subd (a) amended effective July 1, 2001.)*
29

30 **(b) [Agreement for postadoption contact (Fam. Code, § 8714.7)]** An adoptive
31 parent or parents, a birth relative or relatives, including a birth parent or
32 parents of a child who is the subject of an adoption petition, and the child may
33 enter into a written agreement permitting postadoption contact between the
34 child and birth relatives. No prospective adoptive parent or birth relative may
35 be required by court order to enter into a postadoption contact agreement.

36
37 *(Subd (b) amended effective January 1, 2003; previous amended effective July 1, 2001.)*
38

39 **(c) [Court approval; time of decree (Fam. Code, § 8714.7)]** If, at the time the
40 adoption petition is granted, the court finds that the agreement is in the best
41 interests of the child, the court may enter the decree of adoption and grant
42 postadoption contact as reflected in the approved agreement.

1
2 (d) **[Terms of agreement (Fam. Code, § 8714.7)]** The terms of the agreement are
3 limited to the following, although they need not include all permitted terms:
4

- 5 (1) Provisions for visitation between the child and a birth parent or parents;
6
7 (2) Provisions for visitation between the child and other identified birth
8 relatives, including siblings or half-siblings of the child;
9
10 (3) Provisions for contact between the child and a birth parent or parents;
11
12 (4) Provisions for contact between the child and other identified birth
13 relatives, including siblings or half-siblings of the child;
14
15 (5) Provisions for contact between the adoptive parent or parents and a birth
16 parent or parents;
17
18 (6) Provisions for contact between the adoptive parent or parents and other
19 identified birth relatives, including siblings or half-siblings of the child;
20
21 (7) Provisions for the sharing of information about the child with a birth
22 parent or parents;
23
24 (8) Provisions for the sharing of information about the child with other
25 identified birth relatives, including siblings or half-siblings of the child;
26
27 (9) The terms of any postadoption contact agreement entered into under a
28 petition filed under Family Code section 8714 must be limited to the
29 sharing of information about the child unless the child has an existing
30 relationship with the birth relative.
31

32 *(Subd (d) amended effective July 1, 2001.)*
33

34 (e) **[Child a party (Fam. Code, § 8714.7)]** The child who is the subject of the
35 adoption petition is a party to the agreement whether or not specified as such.
36

- 37 (1) Written consent by a child 12 years of age or older to the terms of the
38 agreement is required for enforcement of the agreement, unless the court
39 finds by a preponderance of the evidence that the agreement is in the best
40 interest of the child and waives the requirement of the child's written
41 consent.
42

- 1 (2) If the child has been found by a juvenile court to be described by section
2 300 of the Welfare and Institutions Code, an attorney must be appointed
3 to represent the child for purposes of participation in and consent to any
4 postadoption contact agreement, regardless of the age of the child. If the
5 child has been represented by an attorney in the dependency proceedings,
6 that attorney must be appointed for the additional responsibilities of this
7 rule. The attorney is required to represent the child only until the adoption
8 is decreed and dependency terminated.

9
10 (Subd (e) amended effective July 1, 2001.)
11

- 12 (f) **[Form and provisions of the agreement (Fam. Code, § 8714.7)]** The
13 agreement must be prepared and submitted on Judicial Council form
14 *Postadoption Contact Agreement* (ADOPT–310) with appropriate attachments.
15

16 (Subd (f) amended effective July 1, 2001.)
17

- 18 (g) **[Report to the court (Fam. Code, § 8715)]** The department or agency
19 participating as a party or joining in the petition for adoption must submit a
20 report to the court. The report must include a criminal record check and
21 descriptions of all social service referrals. If a postadoption contact agreement
22 has been submitted, the report must include a summary of the agreement and a
23 recommendation as to whether it is in the best interest of the child.
24

25 (Subd (g) amended effective July 1, 2001.)
26

- 27 (h) **[Enforcement of the agreement (Fam. Code, § 8714.7)]** The court that grants
28 the petition for adoption and approves the postadoption contact agreement
29 must retain jurisdiction over the agreement.
30

- 31 (1) Any petition for enforcement of an agreement must be filed on Judicial
32 Council form *Petition for Enforcement, Modification, or Termination of*
33 *Postadoption Contact Agreement* (ADOPT–315). The form must not be
34 accepted for filing unless completed in full, with documentary evidence
35 attached of participation in, or attempts to participate in, mediation or
36 other dispute resolution.
37

- 38 (2) The court may make its determination on the petition without testimony
39 or an evidentiary hearing and may rely solely on documentary evidence or
40 offers of proof. The court may order compliance with the agreement only
41 if:
42

1 (A) There is sufficient evidence of good-faith attempts to resolve the
2 issues through mediation or other dispute resolution; and

3
4 (B) The court finds enforcement is in the best interests of the child.

5
6 (3) The court must not order investigation or evaluation of the issues raised in
7 the petition unless the court finds by clear and convincing evidence that:

8
9 (A) The best interests of the child may be protected or advanced only by
10 such inquiry; and

11
12 (B) The inquiry will not disturb the stability of the child's home to the
13 child's detriment.

14
15 (4) Monetary damages must not be ordered.

16
17 (*Subd (h) amended effective July 1, 2001.*)

18
19 (i) **[Modification or termination of agreement (Fam. Code, § 8714.7)]** The
20 agreement may be modified or terminated by the court. Any petition for
21 modification or termination of an agreement must be filed on Judicial Council
22 form *Petition for Enforcement, Modification, or Termination of Postadoption*
23 *Contact Agreement* (ADOPT–315). The form must not be accepted for filing
24 unless completed in full, with documentary evidence attached of participation
25 in, or attempts to participate in, mediation or other appropriate dispute
26 resolution.

27
28 (1) The agreement may be terminated or modified only if:

29
30 (A) All parties, including the child of 12 years or older, have signed the
31 petition or have indicated on the Judicial Council form *Response to*
32 *Petition for Enforcement, Modification, or Termination of*
33 *Postadoption Contact Agreement* (ADOPT–320) their consent or
34 have executed a modified agreement filed with the petition; or

35
36 (B) The court finds all of the following:

37
38 (i) The termination or modification is necessary to serve the best
39 interests of the child;

40
41 (ii) There has been a substantial change of circumstances since the
42 original agreement was approved; and

(iii) The petitioner has participated in, or has attempted to participate in, mediation or appropriate dispute resolution.

(2) The court may make its determination without testimony or evidentiary hearing and may rely solely on documentary evidence or offers of proof.

(3) The court may order modification or termination without a hearing if all parties, including the child of 12 years or older, have signed the petition or have indicated on the Judicial Council form *Response to Petition for Enforcement, Modification, or Termination of Postadoption Contact Agreement* (ADOPT–320) their consent or have executed a modified agreement filed with the petition.

(Subd (i) amended effective July 1, 2001.)

(j) **[Costs and fees (Fam. Code, § 8714.7)]** The fee for filing a *Petition for Enforcement, Modification, or Termination of Postadoption Contact Agreement* (ADOPT–315) must not exceed the fee assessed for the filing of an adoption petition. Costs and fees for mediation or other appropriate dispute resolution must be assumed by each party, with the exception of the child. All costs and fees of litigation, including any court-ordered investigation or evaluation, must be charged to the petitioner unless the court finds that a party other than the child has failed, without good cause, to comply with the approved agreement; all costs and fees must then be charged to that party.

(Subd (j) amended effective July 1, 2001.)

(k) **[Adoption final (Fam. Code, § 8714.7)]** Once a decree of adoption has been entered, the court may not set aside the decree, rescind any relinquishment, modify or set aside any order terminating parental rights, or modify or set aside any other orders related to the granting of the adoption petition, due to the failure of any party to comply with the terms of a postadoption contact agreement or any subsequent modifications to it.

(Subd (k) amended effective July 1, 2001.)

Rule 5.1000 amended and renumbered effective January 1, 2003; adopted as rule 1180 effective July 1, 1998; previously amended July 1, 2001.